

California Government Code
Title 6.7. Infrastructure Finance
Division 1. The Bergeson-Peace Infrastructure and Economic Development
Bank Act ¹

(Current as of March 1, 2010)

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¹ The information in this document has been compiled by staff of the California Infrastructure and Economic Development Bank as of the date noted herein. This document does not constitute official legislative information. The official legislative copy of the Act may be obtained at <http://www.leginfo.ca.gov>.

California Government Code
Title 6.7. Infrastructure Finance
Division 1. The Bergeson-Peace Infrastructure and Economic Development
Bank Act
Chapter 1. General Provisions
Article 1. Findings and Declarations

§ 63000. Economic development of state; legislative findings and declarations

The Legislature finds and declares the following:

(a) Economic revitalization, future development, and a healthy climate for jobs in California will depend upon a well-conceived system of public improvements that are essential to the economic well-being of the citizens of the state and are necessary to maintain, as well as create, employment within the state for business.

(b) It is necessary for public policy to support the efforts of businesses attempting to expand, businesses seeking to locate in California, and local economic development organizations, public agencies, and new entrepreneurs by dedicating public fiscal resources to confront obstacles and barriers that impede economic growth.

(c) Existing mechanisms that coordinate federal, state, local, and private financial resources are inadequate to attract and sustain that level of private investment that is essential to a growth economy.

(d) In order to secure and enhance the economic well-being of Californians, promote economic development in the state, and provide a healthy climate for the creation of jobs, it is necessary for public policy to support the efforts of expanding businesses, businesses seeking to locate in California, local development organizations, public bodies, and new entrepreneurs to gain access to capital through current and potential operations of financial markets.

(e) The high cost and the lack of availability of industrial loans for small- and medium-size businesses is making it difficult for thousands of these enterprises to get established, to maintain their present employment levels, or to expand employment.

(f) The problem of access to capital is acute in the high technology industry clusters because companies must often finance large capital expenditures early in their development cycle, and cannot obtain financing sufficient to cover the cost of those expenditures. Consideration should be given to industry clusters identified by the Economic Strategy Panel that may include the following:

(1) Health care technology.

(2) Multimedia.

(3) Environmental technology.

(4) Information technology.

(g) The high cost and limited availability of loans and capital has led a number of states to take action to remedy these conditions through concerted public and private investment programs that include efforts to do the following:

(1) Use the state's access to capital markets more effectively for economic development.

(2) Create financing pools to access national capital markets or help government sponsors and public-private economic development organizations obtain credit enhancement on their own.

(3) Facilitate credit enhancement for selected specific projects.

(4) Provide or arrange for loan insurance.

(5) Create and support secondary markets for loan portfolios of urban and rural economic development corporations and others.

(6) Improve access to international capital markets.

(7) Provide opportunities for public pension funds and other institutional investors to play a larger role in state economic development.

(8) Arrange for or provide subordinated debt for selected projects.

(9) Increase support for local infrastructure development.

(h) Local governments in California bear a primary responsibility for the business of promoting job creation and economic development efforts. California's continued reliance on autonomous local entities often fails to adequately consider regional impacts of business expansion. Projects of a regional nature need the benefit of a state coordinating function to augment and enhance local economic development and environmental efforts.

(i) The State of California has not embarked on a major infrastructure financing effort since the decade of the 1960's, despite persistent unemployment and soaring population growth.

(j) California's ability to compete in a global economy depends upon its capacity to implement policies that take maximum advantage of public and private resources at the local, regional, state, and national levels. These policies should be coordinated with any future legislative plan involving growth management strategies designed to make economic growth compatible with environmental protections. It is the intent of the Legislature in enacting this act to create a mechanism to finance projects needed to implement economic development and job creation and growth management strategies, and to provide a secure and stable funding source for implementation of this act in order to meet critical economic, social, and environmental concerns.

(k) The State of California needs a financing entity structured with broad authority to issue bonds, provide guarantees, and leverage state and federal funds using techniques that will target public investment to facilitate economic development. The goal is to produce more private sector jobs with less public sector investment.

(l) The mechanisms for financing public improvements and private job creation strategies provided for in this act are in the public interest, serve a public purpose, and will promote the health, welfare, and safety of the citizens of the state.

(m) The public policies and responsibilities of the state, including all of the above purposes and functions, cannot be fully obtained without the use of financing assistance and can be most effectively furthered by the creation of the California Infrastructure and Economic Development Bank.

§ 63002. Short title

This division shall be known and may be cited as the Bergeson-Peace Infrastructure and Economic Development Bank Act.

Chapter 1. General Provisions

Article 2. Definitions

§ 63010. Definitions

For purposes of this division, the following words and terms shall have the following meanings unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means the Bergeson-Peace Infrastructure and Economic Development Bank Act.

(b) "Bank" means the California Infrastructure and Economic Development Bank.

(c) "Board" or "bank board" means the Board of Directors of the California Infrastructure and Economic Development Bank.

(d) "Bond purchase agreement" means a contractual agreement executed between the bank and a sponsor, or a special purpose trust authorized by the bank or a sponsor, or both, whereby the bank or special purpose trust authorized by the bank agrees to purchase bonds of the sponsor for retention or sale.

(e) "Bonds" means bonds, including structured, senior, and subordinated bonds or other securities; loans; notes, including bond, revenue, tax or grant anticipation notes; commercial paper; floating rate and variable maturity securities; and any other evidences of indebtedness or ownership, including certificates of participation or beneficial interest, asset backed certificates, or lease-purchase or installment purchase agreements, whether taxable or excludable from gross income for federal income taxation purposes.

(f) "Cost," as applied to a project or portion thereof financed under this division, means all or any part of the cost of construction, renovation, and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, licenses, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved; the cost of all machinery, equipment, and financing charges; interest prior to, during, and for a period after completion of construction, renovation, or acquisition, as determined by the bank; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; and the cost of architectural, engineering, financial and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incidental to determining the feasibility of any project or incidental to the construction, acquisition, or financing of any project, and transition costs in the case of an electrical corporation.

(g) "Economic development facilities" means real and personal property, structures, buildings, equipment, and supporting components thereof that are used to provide industrial, recreational, research, commercial, utility, or service enterprise facilities, community, educational, cultural, or social welfare facilities and any parts or combinations thereof, and all facilities or infrastructure necessary or desirable in connection therewith, including provision for working capital, but shall not include any housing.

(h) "Electrical corporation" has the meaning set forth in Section 218 of the Public Utilities Code.

(i) "Executive director" means the Executive Director of the California Infrastructure and Economic Development Bank appointed pursuant to Section 63021.

(j) "Financial assistance" in connection with a project, includes, but is not limited to, any combination of grants, loans, the proceeds of bonds issued by the bank or special purpose trust, insurance, guarantees or other credit enhancements or liquidity facilities, and contributions of money, property, labor, or other things of value, as may be approved by resolution of the board or the sponsor, or both; the purchase or retention of bank bonds, the bonds of a sponsor for their retention or for sale by the bank, or the issuance of bank bonds or the bonds of a special purpose trust used to fund the cost of a project for which a sponsor is directly or indirectly liable, including, but not limited to, bonds, the security for which is provided in whole or in part pursuant to the powers granted by Section 63025; bonds for which the bank has provided a guarantee or enhancement, including, but not limited to, the purchase of the subordinated bonds of the sponsor, the subordinated bonds of a special purpose trust, or the retention of the subordinated bonds of the bank pursuant to Chapter 4 (commencing with Section 63060); or any other type of assistance deemed appropriate by the bank or the sponsor, except that no direct loans shall be made to nonpublic entities other than in connection with the issuance of rate reduction bonds pursuant to a financing order or in connection with a financing for an economic development facility.

For purposes of this subdivision, "grant" does not include grants made by the bank except when acting as an agent or intermediary for the distribution or packaging of financing available from federal, private, or other public sources.

(k) "Financing order" has the meaning set forth in Section 840 of the Public Utilities Code.

(l) "Guarantee trust fund" means the California Infrastructure Guarantee Trust Fund.

(m) "Infrastructure bank fund" means the California Infrastructure and Economic Development Bank Fund.

(n) "Loan agreement" means a contractual agreement executed between the bank or a special purpose trust and a sponsor that provides that the bank or special purpose trust will loan funds to the sponsor and that the sponsor will repay the principal and pay the interest and redemption premium, if any, on the loan.

(o) "Participating party" means any person, company, corporation, association, state or municipal governmental entity, partnership, firm, or other entity or group of entities, whether organized for profit or not for profit, engaged in business or operations within the state and that applies for financing from the bank in conjunction with a sponsor for the purpose of implementing a project. However, in the case of a project relating to the financing of transition costs or the acquisition of transition property, or both, on the request of an electrical corporation, or in connection with a financing for an economic development facility, or for the

financing of insurance claims, the participating party shall be deemed to be the same entity as the sponsor for the financing.

(p) "Project" means designing, acquiring, planning, permitting, entitling, constructing, improving, extending, restoring, financing, and generally developing public development facilities or economic development facilities within the state or financing transition costs or the acquisition of transition property, or both, upon approval of a financing order by the Public Utilities Commission, as provided in Article 5. 5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code.

(q) "Public development facilities" means real and personal property, structures, conveyances, equipment, thoroughfares, buildings, and supporting components thereof, excluding any housing, that are directly related to providing the following:

(1) "City streets" including any street, avenue, boulevard, road, parkway, drive, or other way that is any of the following:

(A) An existing municipal roadway.

(B) Is shown upon a plat approved pursuant to law and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, bridges, shoulders, gutters, curbs, guardrails, sidewalks, parking areas, benches, fountains, plantings, lighting systems, and other areas within the street lines, as well as equipment and facilities used in the cleaning, grading, clearance, maintenance, and upkeep thereof.

(2) "County highways" including any county highway as defined in Section 25 of the Streets and Highways Code, that includes the land between the highway lines, whether improved or unimproved, and may comprise pavement, bridges, shoulders, gutters, curbs, guardrails, sidewalks, parking areas, benches, fountains, plantings, lighting systems, and other areas within the street lines, as well as equipment and facilities used in the cleaning, grading, clearance, maintenance, and upkeep thereof.

(3) "Drainage, water supply, and flood control" including, but not limited to, ditches, canals, levees, pumps, dams, conduits, pipes, storm sewers, and dikes necessary to keep or direct water away from people, equipment, buildings, and other protected areas as may be established by lawful authority, as well as the acquisition, improvement, maintenance, and management of floodplain areas and all equipment used in the maintenance and operation of the foregoing.

(4) "Educational facilities" including libraries, child care facilities, including, but not limited to, day care facilities, and employment training facilities.

(5) "Environmental mitigation measures" including required construction or modification of public infrastructure and purchase and installation of pollution control and noise abatement equipment.

(6) "Parks and recreational facilities" including local parks, recreational property and equipment, parkways and property.

(7) "Port facilities" including docks, harbors, ports of entry, piers, ships, small boat harbors and marinas, and any other facilities, additions, or improvements in connection therewith.

(8) "Power and communications" including facilities for the transmission or distribution of electrical energy, natural gas, and telephone and telecommunications service.

(9) "Public transit" including air and rail transport of goods, airports, guideways, vehicles, rights-of-way, passenger stations, maintenance and storage yards, and related structures, including public parking facilities, equipment used to provide or enhance transportation by bus, rail, ferry, or other conveyance, either publicly or privately owned, that provides to the public general or special service on a regular and continuing basis.

(10) "Sewage collection and treatment" including pipes, pumps, and conduits that collect wastewater from residential, manufacturing, and commercial establishments, the equipment, structures, and facilities used in treating wastewater to reduce or eliminate impurities or contaminants, and the facilities used in disposing of, or transporting, remaining sludge, as well as all equipment used in the maintenance and operation of the foregoing.

(11) "Solid waste collection and disposal" including vehicles, vehicle-compatible waste receptacles, transfer stations, recycling centers, sanitary landfills, and waste conversion facilities necessary to remove solid waste, except that which is hazardous as defined by law, from its point of origin.

(12) "Water treatment and distribution" including facilities in which water is purified and otherwise treated to meet residential, manufacturing, or commercial purposes and the conduits, pipes, and pumps that transport it to places of use.

(13) "Defense conversion" including, but not limited to, facilities necessary for successfully converting military bases consistent with an adopted base reuse plan.

(14) "Public safety facilities" including, but not limited to, police stations, fire stations, court buildings, jails, juvenile halls, and juvenile detention facilities.

(15) "State highways" including any state highway as described in Chapter 2 (commencing with Section 230) of Division 1 of the Streets and Highways Code, and the related components necessary for safe operation of the highway.

(16)(A) Military infrastructure, including, but not limited to, facilities on or near a military installation, that enhance the military operations and mission of one or more military installations in this state. To be eligible for funding, the project shall be endorsed by the Office of Military and Aerospace Support established pursuant to Section 13998.2.

(B) For purposes of this subdivision, "military installation" means any facility under the jurisdiction of the Department of Defense, as defined in paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.

(r) "Rate reduction bonds" has the meaning set forth in Section 840 of the Public Utilities Code.

(s) "Revenues" means all receipts, purchase payments, loan repayments, lease payments, and all other income or receipts derived by the bank or a sponsor from the sale, lease, or other financing arrangement undertaken by the bank, a sponsor or a participating party, including, but not limited to, all receipts from a bond purchase agreement, and any income or revenue derived from the investment of any money in any fund or account of the bank or a sponsor and any receipts derived from transition property. Revenues shall not include moneys in the General Fund of the state.

(t) "Special purpose trust" means a trust, partnership, limited partnership, association, corporation, nonprofit corporation, or other entity authorized under the laws of the state to serve as an instrumentality of the state to accomplish public purposes and authorized by the bank to acquire, by purchase or otherwise, for retention or sale, the bonds of a sponsor or of the bank made or entered into pursuant to this division and to issue special purpose trust bonds or other obligations secured by these bonds or other sources of public or private revenues. Special purpose trust also means any entity authorized by the bank to acquire transition property or to issue rate reduction bonds, or both, subject to the approvals by the bank and powers of the bank as are provided by the bank in its resolution authorizing the entity to issue rate reduction bonds.

(u) "Sponsor" means any subdivision of the state or local government including departments, agencies, commissions, cities, counties, nonprofit corporations formed on behalf of a sponsor, special districts, assessment districts, and joint powers authorities within the state or any combination of these subdivisions that makes an application to the bank for financial assistance in connection with a project in a manner prescribed by the bank. This definition shall not be construed to require that an applicant have an ownership interest in the project. In addition, an electrical corporation shall be deemed to be the sponsor as well as the participating party for

any project relating to the financing of transition costs and the acquisition of transition property on the request of the electrical corporation and any person, company, corporation, partnership, firm, or other entity or group engaged in business or operation within the state that applies for financing of any economic development facility, shall be deemed to be the sponsor as well as the participating party for the project relating to the financing of that economic development facility.

(v) "State" means the State of California.

(w) "Transition costs" has the meaning set forth in Section 840 of the Public Utilities Code.

(x) "Transition property" has the meaning set forth in Section 840 of the Public Utilities Code.

California Government Code
Title 6.7. Infrastructure Finance
Division 1. The Bergeson-Peace Infrastructure and Economic Development
Bank Act
Chapter 2. California Infrastructure and Economic Development Bank
Article 1. Creation of the Bank

§ 63021. Infrastructure and Economic Development Bank

(a) There is within the Business, Transportation and Housing Agency the Infrastructure and Economic Development Bank which shall be responsible for administering this division.

(b) The bank shall be under the direction of an executive director appointed by the Governor, and who shall serve at the pleasure of the Governor. The appointment shall be subject to confirmation by the Senate.

§ 63021.5. Board of directors; quorum; voting requirements; conflicts of interest; compensation and reimbursement

(a) The bank shall be governed and its corporate power exercised by a board of directors that shall consist of the following persons:

(1) The Director of Finance or his or her designee.

(2) The Treasurer or his or her designee.

(3) The Secretary of Business, Transportation and Housing or his or her designee, who shall serve as chair of the board.

(4) An appointee of the Governor.

(5) The Secretary of State and Consumer Services Agency or his or her designee.

(b) Any designated director shall serve at the pleasure of the designating power.

(c) Three of the members shall constitute a quorum and the affirmative vote of three board members shall be necessary for any action to be taken by the board.

(d) A member of the board shall not participate in any bank action or attempt to influence any decision or recommendation by any employee of, or consultant to, the bank that involves a sponsor of which he or she is a representative or in which the member or a member of his or her immediate family has a personal financial interest within the meaning of Section 87100. For purposes of this section, "immediate family" means the spouse, children, and parents of the member.

(e) Except as provided in this subdivision, the members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for these expenses is not otherwise provided or payable by another public agency, and shall receive one hundred dollars (\$100) for each full day of attending meetings of the authority.

§ 63022. Executive director; powers and duties

The executive director shall manage and conduct the business and affairs of the bank, the infrastructure bank fund, and guarantee trust fund, subject to the direction of the board. Except as otherwise provided in this section, the board may assign to the executive director, by resolution, those duties generally necessary or convenient to carry out its powers and purposes under this chapter. Any action involving final approval of any bonds, notes, or loans shall require the approval of a majority of the members of the board. Subject to any conditions that the board may from time to time prescribe, the executive director may exercise any power, function, or duty conferred by law on the bank in connection with the administration, management, and conduct of the business and affairs of the bank, the infrastructure bank fund, and the guarantee trust fund.

§ 63022.5. Standards for officers of the bank; insurance for fiduciaries of the bank

(a) The officers of the bank shall be subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)), the applicable rules and standards of the Municipal Securities Rulemaking Board, and all other applicable provisions of law.

(b) The bank may purchase insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if the insurance permits recourse by the insurer against the fiduciary in the case of a breach fiduciary obligation by the fiduciary.

§ 63023. Executive director; powers

In administering and directing the day-to-day operations of the bank in regard to this division, the executive director, or whoever he or she shall assign, may do any of the following if authorized by resolution of the board:

(a) Enter into contracts for investment, guarantee, or enhancement.

(b) Establish procedures, guidelines, criteria, terms, conditions, or other requirements of any contract, bond, grant, or program, as the case may be, in

order to carry out the intents and purposes of the board in authorizing any bond, loan, or grant program pursuant to this division.

(c) Decline to guarantee any risk, or to enter into any contract, in which the minimum requirements of the guarantee trust fund or the infrastructure bank fund are not complied with.

(d) Reinsure any risk or any part of any risk.

(e) Make rules for payments through the infrastructure bank fund and the settlement of claims against the guarantee trust fund and determine to whom and through whom the payments are to be made.

(f) Enter into any contracts or obligations relating to the infrastructure bank fund and the guarantee trust fund.

(g) Invest and reinvest the moneys belonging to the infrastructure bank fund and the guarantee trust fund as provided by this division.

(h) Enter into any contract or agreement, execute any instrument, conduct all business and affairs, and perform all acts relating to the infrastructure bank fund and the guarantee trust fund whether or not specifically designated in this division.

§ 63023.1. Delegation of powers to executive director

The board may delegate to the executive director, or whomever he or she shall assign, the authority to execute a contract or agreement, execute an instrument, conduct all business and affairs, and perform all acts relating to the infrastructure bank fund and the guarantee trust fund.

§ 63024. Executive director; contract authority

The executive director may contract with the Department of Finance, the State Department of Health Services, the Department of Transportation, the Department of Water Resources, the California Integrated Waste Management Board, the State Water Resources Control Board, the Governor's Office of Planning and Research, and any other necessary agencies, persons, or firms to enable the agency to properly perform the duties imposed by this division.

§ 63025. Mandatory powers of bank

The bank board shall do the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

§ 63025.1. Board of directors; powers; delegation to executive director

The bank board may do or delegate the following to the executive director:

(a) Sue and be sued in its own name.

(b) As provided in Chapter 5 (commencing with Section 63070), issue bonds and authorize special purpose trusts to issue bonds, including, at the option of the board, bonds bearing interest that is taxable for the purpose of federal income taxation, or borrow money to pay all or any part of the cost of any project, or to otherwise carry out the purposes of this division.

(c) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this division.

(d) Employ attorneys, financial consultants, and other advisers as may, in the bank's judgment, be necessary in connection with the issuance and sale, or authorization of special purpose trusts for the issuance and sale, of any bonds, notwithstanding Sections 11042 and 11043.

(e) Contract for engineering, architectural, accounting, or other services of appropriate state agencies as may, in its judgment, be necessary for the successful development of a project.

(f) Pay the reasonable costs of consulting engineers, architects, accountants, and construction, land use, recreation, and environmental experts employed by any sponsor or participating party if, in the bank's judgment, those services are necessary for the successful development of a project.

(g) Acquire, take title to, and sell by installment sale or otherwise, lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands that are located within the state, or transition property as the bank may deem necessary or convenient for the financing of the project, upon terms and conditions that it considers to be reasonable.

(h) Receive and accept from any source including, but not limited to, the federal government, the state, or any agency thereof, loans, contributions, or grants, in money, property, labor, or other things of value, for, or in aid of, a project, or any portion thereof.

(i) Make loans to any sponsor or participating party, either directly or by making a loan to a lending institution, in connection with the financing of a project in accordance with an agreement between the bank and the sponsor or a participating

party, either as a sole lender or in participation with other lenders. However, no loan shall exceed the total cost of the project as determined by the sponsor or the participating party and approved by the bank.

(j) Make loans to any sponsor or participating party, either directly or by making a loan to a lending institution, in accordance with an agreement between the bank and the sponsor or participating party to refinance indebtedness incurred by the sponsor or participating party in connection with projects undertaken and completed prior to any agreement with the bank or expectation that the bank would provide financing, either as a sole lender or in participation with other lenders.

(k) Mortgage all or any portion of the bank's interest in a project and the property on which any project is located, whether owned or thereafter acquired, including the granting of a security interest in any property, tangible or intangible.

(l) Assign or pledge all or any portion of the bank's interests in transition property and the revenues therefrom, or assets, things of value, mortgages, deeds of trust, bonds, bond purchase agreements, loan agreements, indentures of mortgage or trust, or similar instruments, notes, and security interests in property, tangible or intangible and the revenues therefrom, of a sponsor or a participating party to which the bank has made loans, and the revenues therefrom, including payment or income from any interest owned or held by the bank, for the benefit of the holders of bonds.

(m) Make, receive, or serve as a conduit for the making of, or otherwise provide for, grants, contributions, guarantees, insurance, credit enhancements or liquidity facilities, or other financial enhancements to a sponsor or a participating party as financial assistance for a project.

(n) Lease the project being financed to a sponsor or a participating party, upon terms and conditions that the bank deems proper but shall not be leased at a loss; charge and collect rents therefor; terminate any lease upon the failure of the lessee to comply with any of the obligations thereof; include in any lease, if desired, provisions that the lessee shall have options to renew the lease for a period or periods, and at rents determined by the bank; purchase any or all of the project; or, upon payment of all the indebtedness incurred by the bank for the financing of the project, the bank may convey any or all of the project to the lessee or lessees.

(o) Charge and equitably apportion among sponsors and participating parties the bank's administrative costs and expenses incurred in the exercise of the powers and duties conferred by this division.

(p) Issue, obtain, or aid in obtaining, from any department or agency of the United States, from other agencies of the state, or from any private company, any insurance or guarantee to, or for, the payment or repayment of interest or principal, or both, or any part thereof, on any loan, lease, or obligation or any

instrument evidencing or securing the same, made or entered into pursuant to this division.

(q) Notwithstanding any other provision of this division, enter into any agreement, contract, or any other instrument with respect to any insurance or guarantee; accept payment in the manner and form as provided therein in the event of default by a sponsor or a participating party; and issue or assign any insurance or guarantee as security for the bank's bonds.

(r) Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary or convenient to, directly or indirectly, secure the bank's bonds, the bonds issued by a special purpose trust, or a sponsor's obligations to the bank or to a special purpose trust, including, but not limited to, bonds of a sponsor purchased by the bank or a special purpose trust for retention or sale, with funds or moneys that are legally available and that are due or payable to the sponsor by reason of any grant, allocation, apportionment or appropriation of the state or agencies thereof, to the extent that the Controller shall be the custodian at any time of these funds or moneys, or with funds or moneys that are or will be legally available to the sponsor, the bank, or the state or any agencies thereof by reason of any grant, allocation, apportionment, or appropriation of the federal government or agencies thereof; and in the event of written notice that the sponsor has not paid or is in default on its obligations to the bank or a special purpose trust, direct the Controller to withhold payment of those funds or moneys from the sponsor over which it is or will be custodian and to pay the same to the bank or special purpose trust or their assignee, or direct the state or any agencies thereof to which any grant, allocation, apportionment or appropriation of the federal government or agencies thereof is or will be legally available to pay the same upon receipt by the bank or special purpose trust or their assignee, until the default has been cured and the amounts then due and unpaid have been paid to the bank or special purpose trust or their assignee, or until arrangements satisfactory to the bank or special purpose trust have been made to cure the default.

(s) Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary, convenient, or appropriate to carry out any power expressly given to the bank by this division, including, but not limited to, agreements for the sale of all or any part, including principal, interest, redemption rights or any other rights or obligations, of bonds of the bank or of a special purpose trust, liquidity agreements, contracts commonly known as interest rate swap agreements, forward payment conversion agreements, futures or contracts providing for payments based on levels of, or changes in, interest rates or currency exchange rates, or contracts to exchange cash-flows or a series of payments, or contracts, including options, puts or calls to hedge payments, rate, spread, currency exchange, or similar exposure, or any other financial instrument commonly known as a structured financial product.

(t) Purchase, with the proceeds of the bank's bonds, transition property or bonds issued by, or for the benefit of, any sponsor in connection with a project, pursuant to a bond purchase agreement or otherwise. Bonds or transition property purchased pursuant to this division may be held by the bank, pledged or assigned by the bank, or sold to public or private purchasers at public or negotiated sale, in whole or in part, separately or together with other bonds issued by the bank, and notwithstanding any other provision of law, may be bought by the bank at private sale.

(u) Enter into purchase and sale agreements with all entities, public and private, including state and local government pension funds, with respect to the sale or purchase of bonds or transition property.

(v) Invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, in obligations that are authorized by law for the investment of trust funds in the custody of the Treasurer.

(w) Authorize a special purpose trust or trusts to purchase or retain, with the proceeds of the bonds of a special purpose trust, transition property or bonds issued by, or for the benefit of, any sponsor in connection with a project or issued by the bank or a special purpose trust, pursuant to a bond purchase agreement or otherwise. Bonds or transition property purchased pursuant to this title may be held by a special purpose entity, pledged or assigned by a special purpose entity, or sold to public or private purchasers at public or negotiated sale, in whole or in part, with or without structuring, subordination or credit enhancement, separately or together with other bonds issued by a special purpose trust, and notwithstanding any other provision of law, may be bought by the bank or by a special purpose trust at private sale.

(x) Approve the issuance of any bonds, notes, or other evidences of indebtedness by the Rural Economic Development Infrastructure Panel, established pursuant to Section 15373.7.

(y) Approve the issuance of rate reduction bonds by an entity other than the bank or a special purpose trust to acquire transition property upon approval of the transaction in a financing order by the Public Utilities Commission, as provided in Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code.

(z) Apply for and accept subventions, grants, loans, advances, and contributions from any source of money, property, labor, or other things of value. The sources may include bond proceeds, dedicated taxes, state appropriations, federal appropriations, federal grant and loan funds, public and private sector retirement system funds, and proceeds of loans from the Pooled Money Investment Account.

(aa) Do all things necessary and convenient to carry out its purposes and exercise its powers, provided, however, that nothing herein shall be construed to authorize the bank to engage directly in the business of a manufacturing, industrial, real estate development, or nongovernmental service enterprise. Further, the bank shall not be organized to accept deposits of money for time or demand deposits or to constitute a bank or trust company.

§ 63025.2. Effect on authority provided under § 19130

Nothing in Section 63025.1 shall be construed to extend or limit the authority of the bank that is otherwise provided in Section 19130.

§ 63026. Fiscal powers of bank; scope of bank powers

The fiscal powers granted to the bank by this part may be exercised without regard or reference to any other department, division, or agency of the state, except the Legislature. This division shall be deemed to provide an alternative method of doing the things authorized by this division, and shall be regarded as supplemental and additional to powers conferred by other laws.

§ 63027. Insurance or reinsurance of loans

(a) The bank may provide insurance or reinsurance of loans or portions thereof, or their debt service, including amounts payable as premiums or penalties in the event of mandatory or optional prepayment, made to finance a project, and to provide insurance or reinsurance or reserves, or portions thereof, or the yield therefrom, established to secure bonds issued to fund those loans or reserves.

(b) The bank may enter into or arrange agreements for insurance or reinsurance with users, mortgagors, lending institutions, insurers, and others, the bank being authorized to reinsure or cede risks to the insurers in any amounts as the bank may determine and the insurers, if otherwise authorized to reinsure or insure those risks in California, being hereby authorized to reinsure the bank or cede risks to the bank to the same extent as if the bank were a company authorized to reinsure or insure those risks.

(c) The bank may fix a rate or rates of premium for insurance or reinsurance, which need not be uniform, and may reflect any risks and classifications of risk as the bank determines to be reasonable.

(d) The bank may exercise those other powers as are necessary or incidental to insurance, reinsurance, and related matters.

(e) The bank shall make reasonable provisions for the security of loans made by the bank, and any insurance, reinsurance, and other financing arrangements negotiated by the bank.

(f) The insurance or reinsurance provided for by the bank shall not constitute a debt or pledge of the faith and credit of the state or any subdivision of the state.

§ 63028. California Economic Development Financing Authority; assumption of duties by bank

The bank assumes and shall observe, keep, and perform all of the responsibilities, liabilities, and obligations of the former California Economic Development Financing Authority established under Part 10.2 (commencing with Section 15710) of Division 2 of Title 2, as it read prior to the effective date of this section, and the assumption of the responsibilities, liabilities, and obligations of the former California Economic Development Financing Authority shall occur without any execution or filing of any paper or any further act. Any reference in any law, contract, bond, indenture, or other document to the former California Economic Development Financing Authority shall be deemed, hereafter, to mean the bank.

Chapter 2. California Infrastructure and Economic Development Bank

Article 2. General Provisions

§ 63030. Bonds issued by bank or special purpose trust; status as legal investment or security

Bonds issued by the bank or a special purpose trust are legal investments for all trust funds, the funds of all insurance companies, banks, both commercial and savings, trust companies, executors, administrators, trustees, and other fiduciaries, for state school funds, pension funds, and for any funds that may be invested in county, school, or municipal bonds. These bonds are securities that may legally be deposited with, and received by, any state or municipal officer or agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including, deposits to secure public funds.

§ 63031. Indebtedness of bank

No liability shall be incurred by the bank beyond the extent to which funds have been provided under this division. However, for the purposes of meeting the necessary expenses of initial organization and operation until the date that the bank derives revenues or proceeds from bonds as provided under this division, the bank may borrow money as needed for the purposes of meeting the necessary expenses

of initial organization and operation from the Pooled Money Investment Account, as specified in subdivision (w) of Section 63025.1 or from any special funds, including the special funds of existing financing authorities. The borrowed money shall be repaid with interest within a reasonable time after the bank receives revenues or proceeds from bonds as provided under this division.

§ 63032. Taxation or assessments; property or projects acquired by bank or special purpose trust; exemption

(a) Neither the bank nor a special purpose trust authorized by the bank is required to pay any property taxes or assessments upon, or with respect to, any project or any property acquired by, or for, the bank under this division, or upon the income therefrom, so long as the bank, on behalf of the state, holds title to the project or to the property contained in the project.

(b) The exemption of the bank or of a special purpose trust from taxation of any property shall cease when title to the property is transferred from the bank to any taxable person or entity. This section does not exempt any taxable person or entity from taxation, including, but not limited to, taxation upon a possessory interest, with respect to any project, or the property of facilities contained in any project that may otherwise be applicable to the person.

§ 63033. Obligations and contracts of bank; pledge and undertaking of state

The state does hereby pledge to, and agrees with, the holders of any bonds issued under this division, and with those parties who may enter into contracts with the bank pursuant to this division, that the state will not limit or alter the rights hereby vested in the bank to finance any project and to fulfill the terms of any loan agreement, lease, or other contract with the agency pursuant to this division, or in any way impair the rights or remedies of the bondholders or of the parties until those bonds, together with interest thereon, are fully discharged or provision for this discharge has been made and those contracts are fully performed on the part of the bank. The bank, as agent for the state, may include this pledge and undertaking for the state in its obligations or contracts.

§ 63034. Administrative fees

The bank shall establish a reasonable schedule of administrative fees, which shall be paid by the sponsor or the participating party pursuant to Section 63074, to reimburse the state for the costs of administering this division.

§ 63035. Report of fiscal year; contents

The bank shall, not later than November 1 of each year, submit to the Governor and the Joint Legislative Budget Committee a report of its activities pursuant to this division for the preceding fiscal year. The report shall include all of the following:

- (a)(1) A listing of applications accepted, including a description of the expected employment impact of each project.
- (2) A separate summary of applications for the Infrastructure State Revolving Fund Program, including a summary of the number of preliminary applications that did not receive funding and the reason the applicant did not qualify.
- (b) A specification of bonds sold and interest rates thereon.
- (c) The amount of other public and private funds leveraged by the assistance provided.
- (d) A report of revenues and expenditures for the preceding fiscal year, including all of the bank's costs. The information provided pursuant to this subdivision shall include, but need not be limited to, both of the following:
 - (1) The amount and source of total bank revenues. Revenues shall be shown by main categories of revenues, including interest earnings, fees collected, and bond proceeds, for each bank program.
 - (2) The amount and type of total bank expenditures. Expenditures shall be shown by major categories of expenditures, including loans provided, debt service payments, and program support costs, for each bank program.
- (e) A projection of the bank's needs and requirements for the coming year.
- (f) Recommendations for changes in state and federal law necessary to meet the objectives of this division.

§ 63035.5. Submission of report required by § 63035 on quarterly basis

The report required by Section 63035 shall be submitted to the Governor and the Joint Legislative Budget Committee on a quarterly basis during the 1999-2000 fiscal year and the 2000-01 fiscal year.

§ 63036. Coordination with growth management strategies

It is the intent of the Legislature that the activities of the bank be fully coordinated with any future legislative plan involving growth management strategies designed to protect California's land resource, and ensure its preservation and use it in ways which are economically and socially desirable. Further, all public works financed

pursuant to this division, including those projects financed through the use of industrial development bonds under Title 10 (commencing with Section 91500), shall comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

§ 63040. Criteria, priorities, and guidelines for selection of projects

(a) Following consultation with appropriate state and local agencies, the bank shall establish criteria, priorities, and guidelines for the selection of projects to receive assistance from the bank. Projects shall comply with the criteria, priorities, and guidelines adopted by the bank.

(b) The criteria, priorities, and guidelines shall, at a minimum, be based upon the following:

(1) The State Environmental Goals and Policy Report, or its successor, approved pursuant to Article 5 (commencing with Section 65041) of Chapter 1.5 of Division 1 of Title 7.

(2) If the sponsor is a state agency, board, commission, or department, the Capital and Infrastructure Project Planning Report, prepared by the Director of Finance pursuant to Article 2 (commencing with Section 13100) of Chapter 2 of Part 3 of Division 3 of Title 2.

(c) When the bank establishes or makes changes to the criteria, priorities, and guidelines, the bank shall notify the Governor, the fiscal and policy committees of the Legislature that exercise legislative oversight of the bank, and appropriate state and local agencies.

(d) The resolution required in Section 63041 shall have been adopted prior to the project's selection by the bank.

Chapter 2. California Infrastructure and Economic Development Bank

Article 3. Local Resolution Applying for Bank Financing

§ 63041. Submission of project for consideration by bank; requirements of project sponsors

(a) Prior to submitting a project to the bank for consideration, the legislative body or bodies of the sponsor or sponsors of the project shall find, by resolution, each of the following:

(1) The project is consistent with the general plan of both the city and county, or city and county in the case of San Francisco, or only the county for projects in unincorporated areas in which the project is located.

(2) The proposed financing is appropriate for the specific project.

(3) The project facilitates effective and efficient use of existing and future public resources so as to promote both economic development and conservation of natural resources. The project develops and enhances public infrastructure in a manner that will attract, create, and sustain long-term employment opportunities.

(4) The project is consistent with the criteria, priorities, and guidelines for the selection of projects adopted pursuant to Section 63040.

(b) Upon the adoption of the resolution in subdivision (a) by the legislative body, the legislative body shall transmit the resolution to the executive director of the infrastructure bank.

§ 63041.5. One-time appropriation for capital outlay and infrastructure needs

(a) It is the intent of the Legislature to provide a one-time appropriation for financial assistance to local government to meet capital outlay and infrastructure needs.

(b) From the funds appropriated in Item 2920-111-0001 of the Budget Act of 1999, the sum of four hundred twenty-five million dollars (\$425,000,000) shall be available for financial assistance, including, but not limited to, leveraged revolving fund loans, to local government sponsors for public development facilities, as specified in subdivision (q) of Section 63010 of the Government Code.

(c) From the funds appropriated in Item 2920-111-0001 of the Budget Act of 1999 and in Item 2920-111-0001 of the Budget Act of 1998 (Chapter 324 of the Statutes of 1998), the California Infrastructure and Economic Development Bank shall make no single loan in excess of 10 percent of the combined amount of these appropriations to the bank unless approved by unanimous consent of the membership of the Board of Directors of the California Infrastructure and Economic Development Bank and the Director of Finance provides a 30-day written notice to the Chairperson and Vice-Chairperson of the Joint Legislative Budget Committee.

Chapter 2. California Infrastructure and Economic Development Bank

Article 4. Financing of Transition Costs

§ 63042. Electrical corporation applications; financing of transition costs and acquisition of transition property

Notwithstanding any other provision of this division, a project for the financing of transition costs and the acquisition of transition property upon the request of an electrical corporation shall be deemed to be in the public interest and eligible for financing by the bank, and Article 3 (commencing with Section 63040) and Article 5 (commencing with Section 63043) shall not apply to the project or financing. The bank shall consider a project for financing transition costs and the acquisition of transition property upon filing of an application by an appropriate participating party, on the terms and conditions the bank shall determine. The bank shall establish procedures for the expeditious review of applications from electrical corporations for the issuance or approval of rate reduction bonds. The review may be concurrent with the Public Utilities Commission's processing of an application for the pertinent financing order, so as to allow for the issuance of rate reduction bonds as quickly as feasible after the issuance of the pertinent financing order by the Public Utilities Commission. Notwithstanding any other provision of this division, the bank shall have no authority to alter or modify any term or condition related to the transition costs or the transition property as set forth in the pertinent financing order, and shall have no authority over any matter that is subject to the approval of the Public Utilities Commission under Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code.

Chapter 2. California Infrastructure and Economic Development Bank

Article 5. Financing Economic Development Facilities

§ 63043. Application of Articles 3 and 4 to financing of economic development facilities

Notwithstanding any other provision of this division, Article 3 (commencing with Section 63040) and Article 4 (commencing with Section 63042), shall not apply to any conduit financing for economic development facilities by the bank directly for the benefit of a participating party.

§ 63044. Application for financing of economic development facilities

The bank shall consider a project for conduit financing for economic development facilities upon filing of an application with the bank by an appropriate participating party, on the terms and conditions the bank shall determine. The bank shall

establish procedures for the expeditious review of applications for the issuance or approval of bonds to finance economic development facilities.

§ 63045. Bonds for financing of economic development facilities

In order to provide or arrange for the financing of economic development facilities, the bank may:

- (a) Issue taxable revenue bonds pursuant to Chapter 5 (commencing with Section 63070) to provide financing for economic development projects compatible with the public interest as specified in Section 63046.
- (b) Issue taxable revenue bonds pursuant to Chapter 5 (commencing with Section 63070) to provide financing for the revolving loan funds and economic development projects of small business development corporations, local economic development corporations, community development corporations, and nonprofit organizations, which revolving loan funds and economic development projects shall be compatible with the public interest.
- (c) Issue tax-exempt revenue bonds pursuant to Chapter 5 (commencing with Section 63070) to provide financing for economic development facilities as permitted by federal law and in accordance with applicable California law relating to the distribution of state allocations for private activity bonds. Projects so financed shall be compatible with the public interest as specified in Section 63046.
- (d) Issue tax-exempt revenue bonds pursuant to Chapter 5 (commencing with Section 63070) for economic development facilities of public sector and nonprofit organizations qualifying for exemption under federal law.

§ 63046. Criteria for financing

No financing shall be made by the bank under this article unless the bank shall have first determined that the financing or assistance meets the following public interest criteria:

- (a) The financing, loan, grant, or other assistance is for a project or a use in the State of California.
- (b) Those seeking funds or other assistance are capable of meeting obligations incurred under relevant agreements.
- (c) In the case of loans or bonds, payments to be made under applicable financing documents are adequate to pay the current expenses of the bank in connection with the financing and to make payments on the bonds.

(d) The proposed financing is appropriate for the specific project.

§ 63047. Penalties; financing priorities; contractor license certification; local or regional comprehensive plan; job displacement; identification of projects

(a) Any loan entered into pursuant to this article may contain provisions for payment of a penalty if any recipient of funds under this article leaves this state prior to the completion of the full term of the loan.

(b) Projects that the board determines will produce long-term employment creation or retention shall receive first priority for financing.

(c) Any recipient of funds under this article that utilizes the funds for construction purposes, shall certify that the contractors are properly licensed by the Contractors' State License Board.

(d) The bank shall require that the proposed economic development facilities be consistent with any existing local or regional comprehensive plan.

(e) The bank shall develop a policy regarding financing companies that move within this state so as to minimize any displacement of jobs.

(f) In addition to any other methods the bank may use to identify economic development projects, the bank shall utilize existing local economic development networks to identify these projects and prepare a plan, in consultation with local economic development networks and their organizations and representatives, to implement this policy.

**Chapter 2. California Infrastructure and Economic Development Bank
Article 6. State Water Pollution Control Revolving Fund Program**

§ 63048. Purposes of article; definitions

For purposes of this article, the following terms have the following meanings, unless the context clearly indicates or requires another meaning:

(a) "Board" means the State Water Resources Control Board.

(b) "Revolving fund" means the State Water Pollution Control Revolving Fund created by Chapter 6.5 (commencing with Section 13475) of Division 7 of the Water Code.

§ 63048.3. Exclusions of article

Notwithstanding any other provision of this division, Article 3 (commencing with Section 63040), Article 4 (commencing with Article 63042), and Article 5 (commencing with Section 63043) do not apply to any financing provided by the bank to, or at the request of, the board in connection with the revolving fund.

§ 63048.5. Issuance of taxable or tax-exempt revenue bonds; use of bond proceeds

(a) The bank may issue taxable or tax-exempt revenue bonds pursuant to Chapter 5 (commencing with Section 63070) and deposit the proceeds from the bonds into the revolving fund or use the proceeds to refund bonds previously issued under this article. Bond proceeds may also be used to fund necessary reserves, capitalized interest, or costs of issuance.

(b) Except as may be provided in the governing documents with respect to bond anticipation notes, each of the bonds issued under this article shall, to the extent provided in the governing documents, be payable from, and secured by, all or a portion of the revenues in the revolving fund and the assets of the revolving fund, to the extent the revenues and assets are pledged by the board for those purposes.

(c) Bonds issued under this article shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the bank, or a pledge of the faith and credit of the state or of any political subdivision, but shall be payable solely from the revolving fund and the assets of the revolving fund, and the security provided by the revolving fund. All bonds issued under this article shall contain on the face of the bonds a statement to the same effect.

Chapter 2. California Infrastructure and Economic Development Bank

Article 6.5. Tribal Compact Assets Securitization

§ 63048.6. Definitions

The definitions contained in this section are in addition to the definitions contained in Section 63010 and together with the definitions contained in that section shall govern the construction of this article, unless the context requires otherwise:

(a) "Compact assets" means moneys required to be paid to the state under Sections 4.3.1 and 4.3.3 of the designated tribal compacts and the state's rights to receive those payments.

(b) "Designated tribal compacts" means the amended and new tribal-state compacts, which are ratified by the Legislature, and that, among other things, require certain payments to the state in exchange for the exclusive right of the compact tribes to engage in certain gaming activities in their respective core geographic markets, all as specified in the amended and new compacts, and that are designated by the Director of Finance pursuant to subdivision (a) of Section 63048.65.

(c) "Operating expenses" means the reasonable operating expenses of the special purpose trust and the bank, including, but not limited to, the costs of preparation of accounting and other reports, maintenance of the ratings on the bonds, insurance premiums, or other required activities of the special purpose trust, and fees and expenses incurred for professional consultants, advisors, fiduciaries, and legal counsel, including the fees and expenses of the Attorney General incurred in connection with the enforcement of the pledges and agreements of the state pursuant to Section 63048.8.

§ 63048.63. Legislative findings and declarations relating to financial and legal records of California Indian tribes and tribal business enterprises; disclosure of records; nondisclosure agreements

(a) The Legislature hereby finds and declares:

(1) The financial and legal records of California Indian tribes and tribal business enterprises are records of a sovereign nation and are not subject to disclosure by private citizens or the state. This is explicitly recognized in amendments to tribal-state gaming compacts ratified by the Legislature, which provide for the securitization of annual payments to be received from the tribes by the state or by an agency, trust, fund, or entity specified by the state.

(2) In order to review the records of any Indian tribe relative to this securitization, the compacts require the execution of nondisclosure agreements.

(3) State entities statutorily charged with participating in the bond sale cannot perform those duties in the absence of that agreement, and the Legislature hereby acknowledges and agrees that documents containing tribal information are not public records, shall not be discussed in an open meeting, and that state officials privy to that information may execute nondisclosure agreements.

(b) Nothing in Chapter 3.5 of Division 7 of Title 1 (commencing with Section 6250) or any other provision of law shall permit the disclosure of any records of an Indian tribe received by the state, or by an agency, trust fund, or entity specified by the state, in connection with the sale of any portions of the designated tribal-state gaming compact assets or the issuance of bonds, or any summaries or analyses thereof. The transmission of the records, or the information contained in those records in an alternative form, to the state or the special purpose trust shall not

constitute a waiver of exemption from disclosure, and the records and information once transmitted to the state or special purpose trust shall be subject to this same exemption from disclosure.

(c) The state and the special purpose trust are authorized to enter into nondisclosure agreements with Indian tribes agreeing not to disclose the materials described in subdivision (b).

(d) The nondisclosure agreements may include provisions limiting the representatives of the state and the special purpose trust authorized to review or receive records of the Indian tribe to those individuals directly working on the sale of portions of the designated compact assets or the issuance of the bonds.

(e) Nothing in Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code shall be construed to prevent the bank from conducting a closed session to consider any records or information of an Indian tribe or any summaries or analyses thereof received by the state in connection with the sale of any portion of the compact assets or the issuance of bonds.

§ 63048.65. Sale of compact assets; establishment of special purpose trust; allocation of deposits; subsequent or new tribal-state compacts; amended compacts; location, composition and authority of trust

(a) Upon a filing by the Director of Finance with the bank of a list of designated tribal compacts and the specific portions of the compact assets to be sold, the bank may sell for, and on behalf of, the state, solely as its agent, those specific portions of the compact assets to a special purpose trust. To that end, a special purpose trust is hereby established as a not-for-profit corporation solely for that purpose and for the purposes necessarily incidental thereto. The bank may enter into one or more sales agreements with the special purpose trust on terms it deems appropriate, which may include covenants of, and binding on, the state necessary to establish and maintain the security of the bonds and exemption of interest on the bonds from federal income taxation. The portion of the compact assets to be sold shall be an amount or amounts determined by the Director of Finance that are necessary to provide the state with net proceeds of the sale, not to exceed one billion five hundred million dollars (\$1,500,000,000), exclusive of capitalized interest on the bonds and any costs incurred by the bank or the special purpose trust in implementing this article, including, but not limited to, the cost of financing one or more reserve funds, any credit enhancements, costs incurred in the issuance of bonds, and operating expenses. Those specific portions of the compact assets may be sold at one time or from time to time.

(b) The special purpose trust may issue bonds, including, but not limited to, refunding bonds, on the terms it shall determine, and do all things contemplated by, and authorized by, this division with respect to the bank, and enjoy all rights,

privileges, and immunities the bank enjoys pursuant to this division, or as authorized by Section 5140 of the Corporations Code with respect to public benefit nonprofit corporations, or as necessary or appropriate in connection with the issuance of bonds, and may enter into agreements with any public or private entity and pledge the compact assets that it purchased as collateral and security for its bonds. However, to the extent of any conflict between any of the foregoing and the provisions of this article, the provisions of this article shall control. The pledge of any of these assets and of any revenues, reserves, and earnings pledged in connection with these assets shall be valid and binding in accordance with its terms from the time the pledge is made, and amounts so pledged and thereafter received shall immediately be subject to the lien of the pledge without the need for physical delivery, recordation, filing, or other further act. The special purpose trust, and its assets and income, and bonds issued by the special purpose trust, and their transfer and the income therefrom, shall be exempt from all taxation by the state and by its political subdivisions.

(c)(1) The net proceeds of the sale of compact assets by the bank shall be deposited in the following order:

(A) One billion two hundred million dollars (\$1,200, 000,000) plus any interest due pursuant to paragraph (3) of subdivision (c) of Section 14556.8, to the Traffic Congestion Relief Fund for the purpose of funding or reimbursing the cost of projects, programs, and activities permitted and necessary to be funded by that fund in accordance with applicable law, and to repay loans made from the State Highway Account and the Public Transportation Account to the Traffic Congestion Relief Fund pursuant to Section 14556.8, in the following priority order:

(i) Transfer of four hundred forty-three million dollars (\$443,000,000) plus any interest due pursuant to paragraph (3) of subdivision (c) of Section 14556.8, to the State Highway Account for project expenditures.

(ii) Two hundred ninety million dollars (\$290,000,000) for allocation to Traffic Congestion Relief Program projects.

(iii) Two hundred seventy-five million dollars (\$275, 000,000) to [FN1]

the Public Transportation Account for project expenditures.

(iv) All remaining funds for allocation to Traffic Congestion Relief Program projects.

(B) To the Transportation Deferred Investment Fund, an amount up to the outstanding amount of the suspension of the 2004-05 fiscal year transfer of the sales tax on gasoline to the Transportation Investment Fund pursuant to requirements of Article XIX B of the California Constitution.

(C) To the Transportation Deferred Investment Fund, an amount up to the outstanding amount of the suspension of the 2003-04 fiscal year transfer of the sales tax on gasoline to the Transportation Investment Fund pursuant to requirements of Article XIX B of the California Constitution.

(2) Notwithstanding paragraph (1), if and to the extent it is necessary to ensure to the maximum extent practicable the eligibility for exclusion from taxation under the federal Internal Revenue Code of interest on the bonds to be issued by the special purpose trust, the Director of Finance may adjust the application of proceeds not eligible for exclusion from taxation among the authorized funds described in paragraph (1). The Department of Finance shall submit a report to the Legislature describing any proposed changes among the authorized funds in paragraph (1), and consistent with this paragraph, at least 30 days prior to issuing the bonds pursuant to this article. Amounts deposited in the Traffic Congestion Relief Fund pursuant to paragraph (1) shall be applied as a credit to transfers from the General Fund that the Controller would otherwise be required to make to that fund. Amounts deposited in the Transportation Deferred Investment Fund shall be expended in conformance with Sections 7105 and 7106 of the Revenue and Taxation Code, and the amounts so deposited shall also be applied as a credit to the transfers from the General Fund that the Controller would otherwise be required to make under those sections. The Legislature hereby finds and declares that the deposits and credits described in this subdivision do not constitute the use of the proceeds of bonds or other indebtedness to pay a yearend State Budget deficit as prohibited by subdivision (c) of Section 1.3 of Article XVI of the California Constitution. Subject to any constitutional limitation, the use and application of the proceeds of any sale of compact assets or bonds shall not in any way affect the legality or validity of that sale or those bonds.

(d) Funds received from amended tribal-state compacts, or new compacts entered into and ratified on or after the effective date of this article, pursuant to Section 4.3.1 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, that are neither sold to the special purpose trust nor otherwise appropriated, and funds received as a result of the state's acquisition of an ownership interest in any residual interest in compact assets attributable to Section 4.3.1 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, shall be remitted to the California Gambling Control Commission for deposit in the General Fund.

(e) Funds received from amended tribal-state compacts, or new compacts entered into and ratified on or after the effective date of this article, pursuant to Section 4.3.3 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, shall be held in an account within the Special Deposit Fund until those funds are sold or otherwise applied pursuant to this subdivision. From time to time, at the direction of the Director of Finance, any moneys in this account shall be deposited and applied in accordance with subdivision (c) or shall be deemed to be compact assets for purposes of sale to the special purpose trust

pursuant to this article. If the Director of Finance determines that the bonds authorized pursuant to this article cannot be successfully issued by the special purpose trust, funds within the account shall be deposited in accordance with subdivision (c). In addition, all subsequent revenues remitted pursuant to Section 4.3.3 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, and funds received as a result of the state's acquisition of an ownership interest in any residual interest in compact assets attributable to Section 4.3.3 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, shall be used to satisfy the purposes of subdivision (c). When the amounts described in subdivision (c) have been paid to the funds named in that subdivision either pursuant to this article or by other appropriations or transfers, thereafter the revenues received by the state from Section 4.3.3 of the compact shall be remitted to the California Gambling Control Commission for deposit in the General Fund.

(f) The principal office of the special purpose trust shall be located in the County of Sacramento. The articles of incorporation of the special purpose trust shall be prepared and filed, on behalf of the state, with the Secretary of State by the bank. The members of the board of directors of the bank as of the effective date of this article, the Director of the Department of Transportation, and the Director of General Services, shall each serve ex officio as the directors of the special purpose trust. Any of these directors may name a designee to act on his or her behalf as a director of the special purpose trust. The Director of Finance or his or her designee shall serve as chair of the special purpose trust. Directors of the special purpose trust shall not be subject to personal liability for carrying out the powers and duties conferred by this article. The Legislature hereby finds and declares that the duties and responsibilities of the directors of the special purpose trust and the duties and responsibilities of the Director of Finance established under this article are within the scope of the primary duties of those persons in their official capacities. The special purpose trust shall be treated as a separate legal entity with its separate corporate purpose as described in this article, and the assets, liabilities, and funds of the special purpose trust shall be neither consolidated nor commingled with those of the bank.

§ 63048.66. Sale of compact assets; payments; legal challenges to issuance of bonds settled for bonds to be sold

(a) Notwithstanding Section 63048.65 or any other provision of this article, compact assets that are subject to designation by the Director of Finance for sale pursuant to subdivision (a) of Section 63048.65 and that are timely deposited or are due for deposit in the Special Deposit Fund on or after July 1, 2008, and on or before June 30, 2010, shall not be available for the purpose of Section 63048.65.

(b) The Director of Finance shall determine the portion of the compact assets described in subdivision (a) that are attributable to payments made for each fiscal year. The Director of Finance may direct the Controller, by separate order

applicable to the assets for each fiscal year, to transfer the compact assets attributable to that fiscal year from the Special Deposit Fund to the General Fund.

(c) Upon order of the Director of Finance, the Controller shall transfer the compact assets as provided in subdivision (b).

(d) If any legal challenges to the issuance of bonds pursuant to this article are settled sufficiently for the bonds to be sold, the following shall occur:

(1) Notwithstanding subdivision (a), the tribal assets described in subdivision (a) that are in the Special Deposit Fund, or are still due for payment to the Special Deposit Fund, may be made available for sale pursuant to subdivision (a) of Section 63048.65.

(2) The transfer of any compact assets to the General Fund pursuant to this section shall be suspended until after the bonds are sold, and any possible future transfers to the General Fund shall be consistent with the provisions of the bond sale.

§ 63048.7. Application of enumerated articles of Government Code to bonds issued by special purpose trust

Notwithstanding any other provision of this division, Article 3 (commencing with Section 63040), Article 4 (commencing with Section 63042), and Article 5 (commencing with Section 63043) do not apply to any bonds issued by the special purpose trust established by this article. All matters authorized in this article are in addition to powers granted to the bank in this division.

§ 63048.75. Treatment of sale of assets; characterization

Any sale of some or all of the compact assets under this article shall be treated as a true sale and absolute transfer of the property so transferred to the special purpose trust and not as a pledge or grant of a security interest by the state, the bank board, or the bank for any borrowing. The characterization of the sale of any of those assets as an absolute transfer by the participants shall not be negated or adversely affected by the fact that only a portion of the compact assets is transferred, nor by the state's acquisition of an ownership interest in any residual interest in the compact assets, nor by any characterization of the special purpose trust or its bonds for purposes of accounting, taxation, or securities regulation, nor by any other factor whatsoever.

§ 63048.8. Right, title or interest in compact assets; property of special purpose trust; notice of required payments; protection of bond holders; character and form of bonds; court actions or proceedings; appeals

(a)(1) On and after the effective date of each sale of compact assets, the state shall have no right, title, or interest in or to the compact assets sold, and the compact assets so sold shall be property of the special purpose trust and not of the state, the bank board, or the bank, and shall be owned, received, held, and disbursed by the special purpose trust or the trustee for the financing. None of the compact assets sold by the state pursuant to this article shall be subject to garnishment, levy, execution, attachment, or other process, writ, including, but not limited to, a writ of mandate, or remedy in connection with the assertion or enforcement of any debt, claim, settlement, or judgment against the state, the bank board, or the bank.

(2) On or before the effective date of any sale, the state, acting through the Director of Finance, upon direction of the bank, shall notify each tribe that has executed a designated tribal compact that the particular compact assets that have been sold to the special purpose trust and irrevocably instruct the tribe that, as of the applicable effective date and so long as the bonds secured by the compact assets are outstanding, the compact assets sold are to be paid directly to the trustee for the applicable bonds of the special purpose trust. Certification by the Director of Finance that this notice has been given shall be conclusive evidence thereof for purposes of this article.

(3) The state pledges and agrees with the holders of any bonds issued by the special purpose trust that it will not authorize anyone other than an Indian tribe with a federally authorized compact to engage in specified gaming activities within the defined core geographic market of an Indian tribe that is a party to a designated tribal compact in violation of the designated tribal compact as ratified by the Legislature, unless adequate provision is made by law for the protection of the holders of bonds in a manner consistent with the indenture or trust agreement pursuant to which the bonds are issued. The state pledges to and agrees with the holders of any bonds issued by the special purpose trust that it will (A) enforce its rights to collect the compact assets sold to the special purpose trust pursuant to this article, (B) not amend any designated tribal compact or take any other action, that would in any way diminish, limit, or impair the rights to receive compact assets sold to the special purpose trust pursuant to this article, and (C) not in anyway impair the rights and remedies of bondholders or the security for their bonds until, in each case, those bonds, together with the interest thereon and costs and expenses in connection with any action or proceeding on behalf of the bondholders, are fully paid and discharged or otherwise provided for pursuant to the terms of the indenture or trust agreement pursuant to which those bonds are issued. The special purpose trust may include these pledges and undertakings in its bonds. Notwithstanding any other provision of this article, inherent police powers that cannot be contracted away are reserved to the state.

(b) Bonds issued pursuant to this article shall not be deemed to constitute a debt of the state nor a pledge of the faith or credit of the state, and all bonds shall contain on the face of the bond a statement to the effect that neither the faith and credit nor the taxing power nor any other assets or revenues of the state or of any political subdivision of the state other than the special purpose trust, is or shall be pledged to the payment of the principal of or the interest on the bonds.

(c) Whether or not the bonds are of a form and character as to be negotiable instruments under the terms of the Uniform Commercial Code, the bonds are hereby made negotiable instruments for all purposes, subject only to the provisions of the bonds for registration.

(d) The special purpose trust and the bank shall be treated as public agencies for purposes of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, and any action or proceeding challenging the validity of any matter authorized by this article shall be brought in accordance with, and within the time specified in, that chapter.

(e) Notwithstanding any other provision of law, the exclusive means to obtain review of a superior court judgment entered in an action brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any bonds to be issued, any other contracts to be entered into, or any other matters authorized by this article shall be by petition to the Supreme Court for writ of review. Any such petition shall be filed within 15 days following the notice of entry of the superior court judgment, and no extension of that period shall be allowed. If no petition is filed within the time allowed for this purpose, or the petition is denied, with or without opinion, the decision of the superior court shall be final and enforceable as provided in subdivision (a) of Section 870 of the Code of Civil Procedure. In any case in which a petition has been filed within the time allowed, the Supreme Court shall make any orders as it may deem proper in the circumstances. If no answering party appeared in the superior court action, the only issues that may be raised in the petition are those related to the jurisdiction of the superior court. Nothing in this subdivision or subdivision (d) shall be construed as granting standing to challenge the designated tribal compacts.

§ 63048.85. Legislative findings and declarations; nature of proceeds from sale of compact assets

(a) The Legislature finds and declares that, because the proceeds from the sale of compact assets authorized by this article are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

(b) Compact assets shall not be deemed to be "State General Fund proceeds of taxes appropriated pursuant to Article XIII B" within the meaning of Section 8 of

Article XVI of the California Constitution, Section 41202 of the Education Code, or any other provision of law.

(c) Compact assets are not General Fund revenues for the purposes of Section 8 of Article XVI of the California Constitution or any other provision of law.

§ 63048.9. Construction of article

This article and all powers granted hereby shall be liberally construed to effectuate its intent and their purposes.

Chapter 2. California Infrastructure and Economic Development Bank

Article 7. Tobacco Settlement State Securitization

§ 63049. Definitions

The definitions contained in this section are in addition to the definitions contained in Section 63010 and together with the definitions contained in that section shall govern the construction of this article, unless the context requires otherwise:

(a) "California escrow agreement" means the escrow agreement dated April 12, 2000, as amended, between the Attorney General, on behalf of the state, and the California escrow agent named in the agreement relating to the division between the state and the participating jurisdictions of amounts payable under the Master Settlement Agreement.

(b) "Consent decree and final judgment" means, collectively, the Consent Decree and Final Judgment entered in the Superior Court of the State of California for San Diego County on December 9, 1998, approving the Master Settlement Agreement, the memorandum of understanding, and the orders entered by the court on January 18, 2000, and July 30, 2001, approving the Agreement Regarding Interpretation of Memorandum of Understanding.

(c) "Master Settlement Agreement" means the settlement dated November 23, 1998, as amended, among the attorneys general of 46 states (including California), the District of Columbia, the Commonwealth of Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands, and Philip Morris Incorporated, R. J. Reynolds Tobacco Company, Brown and Williamson Tobacco Corporation, Lorillard Tobacco Company, and the other Subsequent Participating Manufacturers as defined therein.

(d) "Memorandum of understanding" means, collectively, the memorandum of understanding dated August 5, 1998, as amended, together with the Agreement Regarding Interpretation of Memorandum of Understanding, as amended, among

the state and various local governments of the state to coordinate their pending cases and to allocate certain portions of the recovery under the Master Settlement Agreement.

(e) "Operating expenses" means the reasonable operating expenses of the special purpose trust, including, without limitation, the costs of preparation of accounting and other reports, maintenance of the ratings on the bonds, insurance premiums, or other required activities of the special purpose trust, and fees and expenses incurred for professional consultants and fiduciaries.

(f) "Tobacco assets" means all moneys required to be paid to the state under the Master Settlement Agreement, as further provided in the memorandum of understanding and the California escrow agreement, and all of the state's rights to receive those payments.

§ 63049.1. Sale of state tobacco assets; establishment of special purpose trust; pledge of assets; priority; sale proceeds; deposits into Tobacco Asset Sales Revenue Fund

(a) Subject to subdivision (c) and subdivision (d), as applicable, the bank is hereby authorized to sell for, and on behalf of, the state, solely as its agent, all or any portion of the tobacco assets, or any residual interests therein, to a special purpose trust which is hereby established as a not-for-profit corporation solely for that purpose and for the purposes necessarily incidental thereto, and to enter into one or more sales agreements with the special purpose trust as and on the terms it deems appropriate, which may include covenants of, and binding on, the state necessary to establish and maintain the security of the bonds and exemption of interest on the bonds from federal income taxation. The principal office of the special purpose trust shall be located in Sacramento County. The articles of incorporation of the special purpose trust shall be prepared and filed, on behalf of the state, with the Secretary of State by the bank, and the five voting members of the State Public Works Board shall serve ex officio as the directors of the special purpose trust. Directors of the special purpose trust shall not be subject to personal liability for carrying out the powers and duties conferred by this article. The special purpose trust shall be treated as a separate legal entity with its separate corporate purpose as described in this article, and the assets, liabilities, and funds of the special purpose trust shall be neither consolidated nor commingled with those of the bank or the State Public Works Board.

The special purpose trust is hereby authorized to issue bonds, including, but not limited to, refunding bonds, on the terms it shall determine, and do all things contemplated by, and authorized by, this division with respect to the bank, and enjoy all rights, privileges, and immunities the bank enjoys pursuant to this division, or as authorized by Section 5140 of the Corporations Code with respect to public benefit nonprofit corporations, or as necessary or appropriate in connection with the issuance of bonds, and may enter into agreements with any public or

private entity and pledge the tobacco assets, or any residual interests therein, that it purchased as collateral and security for its bonds. The pledge of any of these assets and interests and of any revenues, reserves, and earnings pledged in connection therewith shall be valid and binding in accordance with its terms and have priority in accordance with its terms from the time the pledge is made and property so pledged shall immediately be subject to the lien of the pledge without the need for physical delivery, recordation, filing, or other further act. The pledge shall not be subject to Division 9 (commencing with Section 9101) of the Commercial Code or Sections 954.5 and 955.1 of the Civil Code. The special purpose trust, and its assets and income, and bonds issued by the special purpose trust, and their transfer and the income therefrom, shall be exempt from all taxation by the state and by its political subdivisions.

(b)(1) In order to assist the special purpose trust in financing or refinancing the purchase of tobacco assets, or any residual interests therein, by enhancing the security of the bonds issued for that purpose, upon request by the Director of Finance, the bank may include in, or add to, the sales agreement with the special purpose trust a covenant, binding on the state, to the effect that the Governor shall each year request from the Legislature an appropriation line item in the annual Budget Act, in a manner described further in this subdivision, from the General Fund for allocation by the Department of Finance to the special purpose trust in an amount equal to the debt service and operating expenses scheduled, or, in the case of bonds bearing variable rates of interest, estimated, to become due during the next succeeding fiscal year on the bonds, including refunding bonds, issued by the special purpose trust to finance or refinance the purchase of tobacco assets, or any residual interests therein, pursuant to that sales agreement.

(2) The appropriation referred to in paragraph (1) may provide that it will have an initial zero funding amount, but shall contain provisions authorizing the Director of Finance to make allocations in augmentation of the appropriation, without further legislative approval, from the General Fund, up to the amount certified by the special purpose trust to be necessary to cover the difference, if negative, between the amount of tobacco assets received by the special purpose trust pursuant to the sales agreement by the end of April of any calendar year, plus any other amounts available in the debt service reserve fund or other fund held by the trustee for the bonds, less the amount of debt service on the bonds and operating expenses scheduled, or in the case of bonds bearing variable rates of interest, estimated, to become due during the next succeeding 12 months.

(3) Any amounts appropriated as provided in this subdivision shall be disbursed to the trustee for the bonds for the purpose of paying the debt service on the bonds and operating expenses specified in the certificate of the special purpose trust. Notwithstanding any other provision of this article, the Legislature shall not be obligated by this subdivision or any covenant made in a sales agreement, or any other provision of law, to appropriate or otherwise make funds available to pay debt service on the bonds or operating expenses.

(c) Based upon the terms of the sale agreements and bonds as established by the special purpose trust pursuant to subdivision (a) or (b), tobacco assets, or any residual interests therein, may be sold pursuant to this article, whether at one time or from time-to-time. The net proceeds of sale of any tobacco assets by the bank shall be deposited in the General Fund, except that the proceeds from the sale of any residual interests therein shall be deposited in the Tobacco Asset Sales Revenue Fund established pursuant to Section 63049.55. The use and application of the proceeds of any sale of tobacco assets, or any residual interests therein, or bonds shall not in any way affect the legality or validity of that sale or those bonds.

(d) On or after January 1, 2007, no bonds issued by the special purpose trust to finance or refinance the purchase of any tobacco assets, or any residual interests therein, shall include any enhancement of security pursuant to subdivision (b), other than refunding bonds for the purpose of refinancing or refunding existing enhanced bonds previously issued.

§ 63049.2. Application of enumerated articles of Government Code to bonds issued by special purpose trust

Notwithstanding any other provision of this division, Article 3 (commencing with Section 63040), Article 4 (commencing with Section 63042), and Article 5 (commencing with Section 63043) do not apply to any bonds issued by the special purpose trust established by this article. All matters authorized in this article are in addition to powers granted to the bank in this division.

§ 63049.3. Treatment of sale of assets; characterization

Any sale of some or all of the tobacco assets under this article shall be treated as a true sale and absolute transfer of the property so transferred to the special purpose trust and not as a pledge or grant of a security interest by the state, the bank board, the State Public Works Board, or the bank for any borrowing. The characterization of the sale of any of those assets as an absolute transfer by the participants shall not be negated or adversely affected by the fact that only a portion of the tobacco assets is transferred, nor by the state's acquisition of an ownership interest in any residual interest or a subordinate interest in the tobacco assets, nor by any characterization of the special purpose trust or its bonds for purposes of accounting, taxation, or securities regulation, nor by any other factor whatsoever.

§ 63049.4. Right, title or interest in tobacco assets sold; property of special purpose trust; notice to escrow agent; applicable bonds; pledges and undertakings; negotiable instruments; treatment of trust as public agency;

review of judgments; amendment of Master Settlement Agreement by Attorney General

(a) On and after the effective date of each sale of tobacco assets, the state shall have no right, title, or interest in or to the tobacco assets sold, and the tobacco assets so sold shall be property of the special purpose trust and not of the state, the bank board, the State Public Works Board, or the bank, and shall be owned, received, held, and disbursed by the special purpose trust or the trustee for the financing. None of the tobacco assets sold by the state pursuant to this article shall be subject to garnishment, levy, execution, attachment, or other process, writ, including, but not limited to, a writ of mandate, or remedy in connection with the assertion or enforcement of any debt, claim, settlement, or judgment against the state, the bank board, the State Public Works Board, or the bank.

On or before the effective date of any sale, the state, acting through its Attorney General, upon direction of the bank, shall notify the California escrow agent under the Master Settlement Agreement and the California escrow agreement that the sold tobacco assets have been sold to the special purpose trust and irrevocably instruct the California escrow agent that, as of the applicable effective date, the tobacco assets sold are to be paid directly to the trustee for the applicable bonds of the special purpose trust. The state pledges to and agrees with the holders of any bonds issued by the special purpose trust that it will not amend the Master Settlement Agreement, the memorandum of understanding, or the California escrow agreement, or take any other action, in any way that would materially adversely alter, limit, or impair the rights to receive tobacco assets sold to the special purpose trust pursuant to this article, nor in any way materially impair the rights and remedies of bondholders or the security for their bonds until those bonds, together with the interest thereon and costs and expenses in connection with any action or proceeding on behalf of the bondholders, are fully paid and discharged. The state further pledges and agrees that it shall enforce its rights to collect all moneys due from the participating tobacco products manufacturers under the Master Settlement Agreement and, in addition, shall diligently enforce the model statute as contemplated in the Master Settlement Agreement (Article 3 (commencing with Section 104555) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code) against all tobacco product manufacturers selling tobacco products in the state and that are not signatories to the Master Settlement Agreement, in each case in the manner and to the extent necessary in the judgment of the Attorney General to collect all moneys to which the state is entitled under the Master Settlement Agreement. The special purpose trust may include these pledges and undertakings in its bonds. Notwithstanding these pledges and undertaking by the state, the Attorney General may in his or her discretion enforce any and all provisions of the Master Settlement Agreement, without limitation.

(b) Bonds issued pursuant to this article shall not be deemed to constitute a debt of the state or a pledge of the faith or credit of the state, and all bonds shall contain on the face thereof a statement to the effect that neither the faith and credit nor the taxing power nor any other assets or revenues of the state or of any political

subdivision thereof, other than the special purpose trust, is or shall be pledged to the payment of the principal of or the interest on the bonds.

(c) Whether or not the bonds are of a form and character as to be negotiable instruments under the terms of the Uniform Commercial Code, the bonds are hereby made negotiable instruments for all purposes, subject only to the provisions of the bonds for registration.

(d) The special purpose trust and the bank shall be treated as public agencies for purposes of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, and any action or proceeding challenging the validity of any matter authorized by this article shall be brought in accordance with, and within the time specified in, that chapter.

(e) Notwithstanding any other provision of law, the exclusive means to obtain review of a superior court judgment entered in an action brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any bonds to be issued, or any other contracts to be entered into, or any other matters authorized by this article, shall be by petition to the Supreme Court for writ of review. Any petition shall be filed within 15 days following the notice of entry of the superior court judgment, and no extension of that period may be allowed. If no petition is filed within the time allowed therefor, or the petition is denied, with or without opinion, the decision of the superior court shall be final and enforceable as provided in subdivision (a) of Section 870 of the Code of Civil Procedure. In any case in which a petition has been filed within the time allowed therefor, the Supreme Court shall make any orders, as it may deem proper in the circumstances. If no answering party appeared in the superior court action, the only issues that may be raised in the petition are those related to the jurisdiction of the superior court.

(f) The Attorney General may negotiate amendments to the Master Settlement Agreement, the memorandum of understanding, and the California escrow agreement, provided that those amendments do not materially adversely alter, limit, or impair the rights to receive tobacco assets sold to the special purpose trust pursuant to this article, nor in any way materially impair the rights and remedies of bondholders or the security for their bond until those bonds, together with the interest on the bonds and costs and expenses in connection with any action or proceeding on behalf of the bondholders, are fully paid and discharged.

§ 63049.5. Participating jurisdictions; memorandum of understanding; receipt of payment; sale or assignment of rights

The state acknowledges and agrees that its 57 counties, the Cities of San Jose, Los Angeles, and San Diego, and the City and County of San Francisco, commonly and collectively known as the "participating jurisdictions," have rights and interests in the memorandum of understanding. In recognition of the rights of the participating

jurisdictions of the state contained in the memorandum of understanding, the state pledges that the sale of tobacco assets authorized by this article shall in no way include and the state shall not otherwise materially adversely alter, limit, or impair the rights of the participating jurisdictions, including, but not limited to, rights to receive payments, set forth in the memorandum of understanding. Nothing in this article shall be construed to alter the right of each of the participating jurisdictions to sell or assign some or all of its interest, and rights to receive payments, under the memorandum of understanding in the manner deemed appropriate by its governing body.

§ 63049.55. Tobacco Asset Sales Revenue Fund

(a) The Tobacco Asset Sales Revenue Fund is hereby established in the State Treasury for the purpose of maintaining a separate account for the investment of proceeds received from the sale of any residual interests in tobacco assets and for the investment earnings on those proceeds.

(b) Pursuant to Article 4 (commencing with Section 16740) of Chapter 3 of Part 2 of Division 4 of Title 2, moneys in the fund may be transferred to the Surplus Money Investment Fund for investment, as long as that transfer does not jeopardize the tax-exempt status of the bonds.

(c) Upon direction by the Director of Finance, moneys in the fund shall be transferred to the General Fund.

(d) Pursuant to Section 16310, moneys in the fund may be borrowed for daily cashflow use by the General Fund.

Chapter 2. California Infrastructure and Economic Development Bank

Article 8. Financing of Insurance Claims

§ 63049.6. Definitions

For purposes of this article, the following terms have the following meanings, in addition to the definitions contained in Section 63010, unless the context clearly indicates or requires another meaning:

(a) "Association" means the California Insurance Guaranty Association created pursuant to Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

(b) "Department" means the Department of Insurance.

(c) "Fund" means the Insurance Assessment Bond Fund created by Section 1063.72 of the Insurance Code.

§ 63049.62. Financing of costs of claims of insolvent insurers

Notwithstanding any other provision of this division, a financing of the costs of claims of insolvent insurers upon the request of the association pursuant to Section 1063.73 of the Insurance Code shall be deemed to be in the public interest and eligible for financing by the bank, and Article 3 (commencing with Section 63041), Article 4 (commencing with Section 63042), Article 5 (commencing with Section 63043), Article 6 (commencing with Section 63048), and Article 7 (commencing with Section 63049) shall not apply to the financing provided by the bank to, or at the request of, the association or the department in connection with the fund. Notwithstanding any other provision of this division, the bank shall have no authority over any matter that is subject to the approval of the Insurance Commissioner under Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

§ 63049.64. Bonds

(a) The bank may issue bonds pursuant to Chapter 5 (commencing with Section 63070) and may loan the proceeds thereof to the association, and deposit the proceeds into a separate account in the fund, or use the proceeds to refund bonds previously issued under this article. Bond proceeds may also be used to fund necessary reserves, capitalized interest, credit enhancement costs, or costs of issuance.

(b) Bonds issued under this article shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the bank, or a pledge of the faith and credit of the state or of any political subdivision, but shall be payable solely from the fund and other revenues and assets securing the bonds. All bonds issued under this article shall contain on the face of the bonds a statement to that effect.

(c) For purposes of this article, the term "project," as defined in subdivision (p) of Section 63010, shall include financing of the costs of claims of insolvent workers' compensation insurers, in an amount (together with associated costs of financing) that may be determined by the association in making a request for financing to the bank.

§ 63049.66. Investment of fund; trustee

The fund, and any other fund or account established pursuant to the issuance of bonds authorized by this article may be invested in any investment authorized

pursuant to Section 63062, and any such fund or account shall be established outside of the centralized treasury system. The bank shall select as trustee for the bonds a corporation or banking association authorized to exercise corporate trust powers.

Chapter 2. California Infrastructure and Economic Development Bank

Article 9. Financing of School District Emergency Apportionments

§ 63049.67. Financing by bank; eligibility; issuance of bonds; bonds not to constitute debt or liability; establishment of funds or accounts; repayment of lease; special provision for Compton Community College; ineligibility as bankruptcy debtor; contracts or agreements

(a) Notwithstanding any other provision of this division, a financing of emergency apportionments upon the request of a school district pursuant to Article 2.7 (commencing with Section 41329.50) of Chapter 3 of Part 24 of the Education Code, is deemed to be in the public interest and eligible for financing by the bank. Article 3 (commencing with Section 63041), Article 4 (commencing with Section 63042) and Article 5 (commencing with Section 63043) do not apply to the financing provided by the bank in connection with an emergency apportionment.

(b) The bank may issue bonds pursuant to Chapter 5 (commencing with Section 63070) and provide the proceeds to a school district pursuant to a lease agreement. The proceeds may be used as an emergency apportionment, to reimburse the interim emergency apportionment from the General Fund authorized pursuant to subdivision (b) of Section 41329.52 of the Education Code, or to refund bonds previously issued under this section. Bond proceeds may also be used to fund necessary reserves, capitalized interest, credit enhancement costs, and costs of issuance.

(c) Bonds issued under this article are not deemed to constitute a debt or liability of the state or of any political subdivision of the state, other than a limited obligation of the bank, or a pledge of the faith and credit of the state or of any political subdivision. All bonds issued under this article shall contain on the face of the bonds a statement to the same effect.

(d) Any fund or account established in connection with the bonds shall be established outside of the centralized treasury system. Notwithstanding any other law, the bank shall select the financing team and the trustee for the bonds, and the trustee shall be a corporation or banking association authorized to exercise corporate trust powers.

(e) Pursuant to Section 41329.55 of the Education Code, a school district other than the Compton Community College District shall instruct the Controller to repay the

lease from moneys in the State School Fund designated for apportionment to the school district. Pursuant to Section 41329.55, if the school district is the Compton Community College District, the Controller shall be instructed to repay the lease from moneys in Section B of the State School Fund. Any amounts necessary to make this repayment shall be drawn from the total statewide funding available for community college apportionment consisting of funds in Section B of the State School Fund. Thereafter the Controller shall transfer to Section B of the State School Fund, either in a single or multiple transfers, an amount equal to the total repayment, which amount shall be transferred from the amount designated for apportionment to the Compton Community College District from the State School Fund. If these transfers from the district prove inadequate to repay any repayments for any reason, the Compton Community College District is required to use any revenue sources available to it for transfer and repayment purposes.

(f) Notwithstanding any other law, as long as any bonds issued pursuant to this section are outstanding, the following requirements apply:

(1) The school district for which the bonds were issued is not eligible to be a debtor in a case under Chapter 9 of the United States Bankruptcy Code, as it may be amended from time to time, and no governmental officer or organization is or may be empowered to authorize the school district to be a debtor under that chapter.

(2) It is the intent of the Legislature that the Legislature should not in the future abolish the Compton Community College District or take any action that would prevent the Compton Community College from entering into or performing binding agreements or invalidate any prior binding agreements of the Compton Community College District, where invalidation may have a material adverse effect on the bonds issued pursuant to this section.

(3) The Compton Community College District shall not be reorganized or merged with another community college district unless all of the following apply:

(A) The successor district becomes by operation of law the owner of all property previously owned by the Compton Community College District.

(B) Any agreement entered into by the Compton Community College District in connection with bonds issued pursuant to this section are assumed by the successor district.

(C) The apportionment authorized by subdivision (e) remains in effect.

(D) Receipt by the bank of an opinion of bond counsel that the bonds issued for the Compton Community College District will remain tax exempt following the reorganization or merger.

(g) Nothing in this section limits the authority of the Legislature to abolish the Compton Community College District when bonds issued for that district are no longer outstanding. Further, the Legislature may provide for the redemption or defeasance of the bonds at any time so that no bonds are outstanding. If the Legislature provides for the redemption or defeasance of the bonds issued for the Compton Community College District in order to abolish that district, it is the intent of the Legislature that the funds required for the redemption or defeasance should be appropriated from Section B of the State School Fund.

(h) The bank may enter into contracts or agreements with banks, insurers, or other financial institutions or parties that it determines are necessary or desirable to improve the security and marketability of, or to manage interest rates or other risks associated with, the bonds issued pursuant to this section. The bank may pledge apportionments made by the Controller directly to the bond trustee pursuant to Section 41329.55 of the Education Code as security for repayment of any obligation owed to a bank, insurer, or other financial institution pursuant to this subdivision.

§ 63049.68. Pledge by State of California not to materially impair security or other interests of holders of bonds issued pursuant to this article; pledge as covenant for benefit of bondholders

The State of California pledges that (a) the state will not alter the directive to the Controller to make apportionments to the bond trustee of moneys in the State School Fund from that set forth in Section 41329.55 of the Education Code, and (b) the state will not amend or repeal subdivision (f) of Section 63049.67, in each case in any manner that would materially impair the security or other interests of holders of any bonds issued pursuant to this article. The bank is authorized to include this pledge in the bonds, or other documents entered into in connection with the bonds, as a covenant for the benefit of the bondholders.

California Government Code
Title 6.7. Infrastructure Finance
Division 1. The Bergeson-Peace Infrastructure and Economic Development
Bank Act
Chapter 3. California Infrastructure and Economic Development Bank Fund

§ 63050. Creation of fund; accounts within fund; use of funds

(a) There is hereby created in the State Treasury the California Infrastructure and Economic Development Bank Fund for the purpose of implementing the objectives and provisions of this division. Within the fund there shall also be established a Sponsor Revenue Bond Account, a Participating Party Revenue Bond Account, a State Infrastructure Revolving Account, and additional accounts and subaccounts that the bank may establish from time to time.

(b) Notwithstanding Section 13340 and except as provided in subdivision (c), all moneys in the infrastructure bank fund are continuously appropriated without regard to fiscal years for the support of the bank and shall be available for expenditure for the purposes stated in this division.

(c) Moneys in the infrastructure bank fund shall be available for expenditure for general administration only upon appropriation by the Legislature. This subdivision shall not limit the authority of the bank to expend funds directly related to the servicing of approved debt. Moneys in the fund shall be available for the purpose of general administration of the authority only upon appropriation by the Legislature, but not more than 5 percent of any bond proceeds administered by the authority may be expended to cover the costs of issuance, as that terminology is defined under Section 147(G) of the Internal Revenue Code.

(d) Notwithstanding any other provision of this division, not more than 15 percent of the financing annually approved by the executive director that utilizes state funds from the infrastructure bank fund may be expended upon educational facilities, environmental mitigation measures, and parks and recreational facilities.

(e) The executive director may transfer funds between the infrastructure bank fund and the guarantee trust fund when appropriate to accomplish the financing objectives of this division.

§ 63052. Pledge of moneys in fund; separate accounts in fund; investments in bank fund; investment of bank funds

(a) The bank may pledge any or all of the moneys in the fund as security for payment of the principal of, and interest on, any particular issuance of bonds issued pursuant to this chapter. The bank may use any or all of the moneys in the fund, including the grant account, to retain or purchase for retention or sale,

subordinated bonds issued by the bank, by a special purpose trust, or by a sponsor pursuant to this chapter. For these purposes, or as necessary or convenient to the accomplishment of any other purpose of the bank, the bank may divide the fund into separate accounts or subaccounts. All moneys accruing to the bank pursuant to this division from any sources shall be deposited in the fund.

(b) Subject to priorities that may be created by the pledge of particular moneys in the infrastructure bank fund to secure any issuance of revenue bonds of the bank, a special purpose trust, or a sponsor, and subject further to reasonable costs that may be incurred by the bank in administering the program authorized by this division, all moneys in the infrastructure bank fund derived from any source, shall be held in trust for the security and payment of revenue bonds of the bank, a special purpose trust, or a sponsor and shall not be used or pledged for any other purpose so long as the revenue bonds are outstanding and unpaid.

(c) Pursuant to any agreements with the holders of revenue bonds pledging any particular assets, revenues, or moneys, the bank may create separate accounts or subaccounts in the infrastructure bank fund to manage these assets, revenues, or moneys in the manner set forth in the agreements.

(d) The bank may, from time to time, direct the Treasurer to invest moneys in the infrastructure bank fund that are not required for its current needs, including proceeds from the sale of any bonds, in any eligible securities specified in Section 16430 as the bank shall designate. The bank may direct the Treasurer to deposit moneys in interest-bearing accounts in any bank in this state or in any savings and loan association in this state. The bank may alternatively require the transfer of moneys in the infrastructure bank fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2. Notwithstanding Section 16305.7, all interest or other increment resulting from the investment or deposit of moneys from the infrastructure bank fund shall be deposited in the infrastructure bank fund. Moneys in the infrastructure bank fund shall not be subject to transfer to any other funds pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2, except to the Surplus Money Investment Fund.

(e) Subject to any agreement with holders of particular bonds, in furtherance of Section 51373 of the Health and Safety Code, and to the extent permitted by law, the bank may also invest moneys of the infrastructure bank fund, including, but not limited to, proceeds of any of its bonds or refunding bonds, in obligations of financial institutions as are permitted by board resolution. The bank may alternatively require the transfer of moneys in the infrastructure bank fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2.

(f) Subject to any agreement with the holders of particular bonds, all interest or other increment resulting from the investment or deposit shall be deposited in the

infrastructure bank fund, notwithstanding Section 16305.7. Moneys in the infrastructure bank fund shall not be subject to transfer to any other fund pursuant to Part 2 (commencing with Section 16300) of Division 4 of Title 2, excepting the Surplus Money Investment Fund.

(g) The infrastructure bank fund shall be organized as a public enterprise fund.

(h) The bank shall cause all moneys in the infrastructure bank fund that are in excess of current requirements to be invested and reinvested, from time to time.

§ 63053. Revenue from general obligation bonds; administration and distribution among fund accounts

(a) The bank may administer and distribute among its accounts and subaccounts, at its discretion, the proceeds from any general obligation bonds issued in accordance with the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2).

(b) The assets of the infrastructure bank fund shall be available for the payment of the salaries and other expenses charged against it in accordance with this division.

§ 63054. Expenses; payment

All expenses incurred in carrying out the purposes of this division shall be payable solely from funds provided pursuant to this division, and no liability or obligation shall be imposed upon the state and none shall be incurred by the agency beyond the extent to which money shall have been provided pursuant to this division.

§ 63055. Proceeds of bonds issued pursuant to the division; transfer of moneys among funds; creation of reserves

(a) Moneys in the infrastructure bank fund received from the proceeds of bonds issued pursuant to this division may not be transferred to any other fund except as necessary to pay the expenses of operating the program authorized by this division, nor shall the bank utilize any moneys under the direction and control of the California Housing Finance Agency, including, but not limited to, moneys in the California Housing Loan Insurance Fund and the Housing Finance Fund, other than moneys in the infrastructure bank fund to satisfy liabilities arising from projects authorized by this division.

(b) The infrastructure bank fund, on behalf of the bank, may borrow or receive moneys from the bank or from any federal, state, or local agency or private entity, in order to create reserves in the infrastructure bank fund as provided in this division and as authorized by resolution of the board.

§ 63056. Expenditures of infrastructure bank fund; preparation and review of budget

Notwithstanding Chapter 2 (commencing with Section 12850) of Part 2.5 of Division 3 of Title 2 and Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of Division 3 of Title 2, expenditures of the infrastructure bank fund shall not be subject to the supervision or approval of any other officer or division of state government, with the exception of the Legislature. However, the bank's budget shall be prepared and reviewed not later than November 1 of each year and the agency shall submit to the Legislature a report of its activities for the prior fiscal year. However, the bank's budget regarding the infrastructure bank fund shall be prepared and reviewed in accordance with Section 50913, and, not later than November 1 of each year, the agency shall submit to the Legislature a report of its activities for the prior fiscal year. The bank's operating budget shall be subject to review and appropriation in the annual Budget Act.

California Government Code
Title 6.7. Infrastructure Finance
Division 1. The Bergeson-Peace Infrastructure and Economic Development
Bank Act
Chapter 4. California Infrastructure Guarantee Trust Fund

§ 63060. California Infrastructure Guarantee Trust Fund; continuous appropriation; purpose; deposit of premiums; guarantees; expenditures

(a) There is hereby created in the State Treasury the California Infrastructure Guarantee Trust Fund.

Notwithstanding Section 13340 and except as provided in subdivision (b), all money in the guarantee trust fund is hereby continuously appropriated to the bank without regard to fiscal years for the purpose of insuring all or a portion of the accounts and subaccounts within the infrastructure bank fund, any contracts or obligations of the bank or a sponsor, and all or a part of any series of bonds issued by the bank, by a special purpose trust, or by a sponsor pursuant to this division, and for the purpose of defraying administrative expenses incurred by the bank in operating the programs of loan and bond guarantee. All insurance premiums received by the bank for insurance, guarantees, or enhancements provided pursuant to this division shall be deposited in the guarantee trust fund. The guarantee trust fund is authorized to guarantee all or a part of any of the accounts and subaccounts within the infrastructure bank fund, any contracts or obligations of the bank, a special purpose trust, or a sponsor, and all or part of any series of bonds issued by the bank, by a special purpose trust, or by a sponsor and to authorize payment on any guarantee or enhancement of the guarantee trust fund.

(b) Moneys in the infrastructure bank fund shall be available for expenditure for general administration only upon appropriation by the Legislature. This subdivision shall not limit the authority of the bank to expend funds directly related to the servicing of approved debt.

§ 63061. Expenditures of fund; preparation and review of budget

Notwithstanding Chapter 2 (commencing with Section 12850) of Part 2.5 of Division 3 of Title 2 and Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of Division 3 of Title 2, expenditure of the guarantee trust fund shall not be subject to the supervision or approval of any other officer or division of state government, with the exception of the Legislature. However, the bank's budget respecting the guarantee trust fund shall be prepared and reviewed not later than November 1 of each year and the bank shall submit to the Legislature a report of its activities for the prior fiscal year. However, the bank's budget regarding the infrastructure bank fund shall be prepared and reviewed in accordance with Section 50913, and, not later than November 1 of each year, the agency shall submit to the Legislature a

report of its activities for the prior fiscal year. The bank's operating budget shall be subject to review and appropriation in the annual Budget Act.

§ 63062. Investment of fund moneys; interest

(a) The bank may, from time to time, direct the Treasurer to invest moneys in the guarantee trust fund that are not required for its current needs in any eligible securities specified in Section 16430 that the bank shall designate. The bank may direct the Treasurer to invest the moneys by entering into repurchase agreements or reverse repurchase agreements, which, for purposes of this section, shall mean agreements for the purchase or sale of eligible securities pursuant to which the seller or buyer agrees to repurchase or sell back the securities on or before a specified date and for a specified amount. The bank may direct the Treasurer to invest the moneys in the subordinated securities of the bank, a special purpose trust, or a sponsor. The bank may direct the Treasurer to invest the moneys in investment agreements with corporations, financial institutions, or national associations within the United States that are rated by a nationally recognized rating service within the top three rating categories of the service. For purposes of this section, investment agreements shall mean any agreement for the investment of moneys in the guarantee trust fund whether at fixed or variable interest rates, and may include, but not be limited to, repurchase agreements, notes, uncollateralized time deposits, certificates of deposit, and the subordinated securities of the bank, a special purpose trust, or a sponsor. The bank may direct the Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state.

(b) In furtherance of Section 51373 of the Health and Safety Code, and to the extent permitted by law, the bank may also invest moneys of the guarantee trust fund in obligations of financial institutions that are permitted by board resolution. The bank may alternatively require the transfer of moneys in the guarantee trust fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2.

(c) All interest or other increment resulting from the investment or deposit shall be deposited in the guarantee trust fund, notwithstanding Section 16305.7.

(d) The bank may create other accounts within the guarantee trust fund as are necessary or convenient to carry out the purposes of this article.

§ 63063. Guarantee reserve account; deposits into account; withdrawal restrictions

(a) There is a guarantee reserve account in the guarantee trust fund to secure commitments under contracts to guarantee all or part of the bonds of the bank, a special purpose trust, or of a sponsor, any contracts or obligations of the bank, a

special purpose trust, or of a sponsor, and all or part of the accounts or subaccounts within the infrastructure bank fund. The bank shall take all reasonable steps to ensure that the guarantee reserve account is continuously maintained at not less than the reserve account requirement established pursuant to subdivision (a) of Section 63064. The bank shall pay all of the following into the guarantee reserve account:

(1) Moneys appropriated and made available by the Legislature for deposit in the account.

(2) Any proceeds of bonds, including general obligation bonds, to the extent provided in the resolution, trust agreement, resolutions or trust agreements authorizing the issue thereof.

(3) Any other moneys that the bank may make available for the purpose of deposit to the guarantee reserve account.

(b) The bank shall not cause sums to be withdrawn from the guarantee reserve account in amounts that would reduce the moneys therein to less than the reserve account requirement, except as necessary to satisfy liabilities arising under contracts of guarantee. In the event that the loan guarantee reserve account is reduced to less than the reserve account requirement, the bank shall cease making commitments for, and contracts of, guarantees and enhancements until the guarantee reserve account has been restored to that requirement.

§ 63064. Appropriations or transfers to guarantee reserve account; reserve account requirement

(a) The Legislature may from time to time appropriate or transfer to the guarantee reserve account from funds or accounts that are legally available, an amount or amounts as the Legislature may determine. The Legislature may establish, and from time to time increase, for the guarantee reserve account a requirement that shall be known as the "reserve account requirement."

(b) If the bank determines that the amount in the reserve account is below the reserve account requirement, the executive director shall immediately certify in writing to the Joint Legislative Budget Committee, the Speaker of the Assembly, the Senate Committee on Rules, and the Governor, the sum required to restore the reserve fund to the reserve account requirement.

(c) Upon making the certification, the chief executive officer shall ask the Governor to request an appropriation, and shall use his or her best efforts to have a sum requested and appropriated.

(d) Upon receiving notice that the amount in the reserve account is below the reserve account requirement, the Legislature may, at its discretion, choose to

appropriate and pay to the bank for deposit into the guarantee reserve account that sum that would restore the reserve account to an amount equal to the reserve account requirement.

(e) The bank may utilize any moneys that may be appropriated to the guarantee trust fund from time to time by the Legislature for effectuating its purposes, including, but not limited to, the payment of the initial expenses of administration and operation and the restoration of the reserve account to the reserve account requirement.

§ 63065. Payment of guarantee benefits; obligations of bank and state; statement of limited liability; transfer or utilization of fund money

(a) The obligation of the bank and of the state to pay any guarantee benefit pursuant to contracts of guarantee or any other contracts or obligations of the bank, a special purpose trust, or sponsor shall be a limited obligation of the bank payable solely from amounts deposited in the guarantee trust fund that are made available therefor under the respective contracts of guarantee. The guarantee of loans or bonds under this division shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor, or to make any appropriation for their payment.

(b) All contracts of guarantee or any other contracts or obligations of the bank, special purpose trust, or a sponsor pursuant to this division shall contain on the face thereof a statement to the following effect: "Neither the faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of or interest on this contract of guarantee."

(c) Moneys in the guarantee trust fund may not be transferred to any other fund except for payment on any guarantee or enhancements or except as necessary to pay the expenses of operating the program of bond guarantee and enhancement authorized by this division, nor shall the bank utilize any moneys under the direction and control of the agency, including, but not limited to, moneys in the California Housing Loan Insurance Fund and the California Housing Finance Fund, other than moneys in the guarantee trust fund, to satisfy liabilities arising from contracts of guarantee authorized by this division.

§ 63066. Insurance guarantee or enhancement premiums; other charges and fees

The bank may charge and collect insurance guarantee or enhancement premiums or other fees for the insurance guarantees or enhancements described in this chapter and impose other reasonable charges and fees for services performed in connection with approval and processing of the guarantees or enhancements, or for

pool assembly, loan servicing, or other services the bank may provide to a special service trust.

§ 63067. Proceeds of bonds issued pursuant to the division; transfers among funds

(a) Moneys in the infrastructure bank fund received from the proceeds of bonds issued pursuant to this division may not be transferred to any other fund except as necessary to pay the expenses of operating the program authorized by this division, nor shall the bank utilize any moneys under the direction and control of the agency, including, but not limited to, moneys in the California Housing Loan Insurance Fund and the Housing Finance Fund, other than moneys in the infrastructure bank fund to satisfy liabilities arising from projects authorized by this division.

(b) The infrastructure bank fund, on behalf of the bank or a special purpose trust, may borrow or receive moneys from any federal, state, or local agency or private entity, in order to create reserves in the infrastructure bank fund as provided in this division and as authorized by resolution of the board.

California Government Code
Title 6.7. Infrastructure Finance
Division 1. The Bergeson-Peace Infrastructure and Economic Development
Bank Act
Chapter 5. Revenue Bonds

§ 63070. Bonding authority; California infrastructure and Economic Development Bank; purchase of bonds of local sponsor or special purpose trust; loans to local sponsor

(a) The bank may, from time to time, issue its revenue bonds in a principal amount that the bank shall determine to be necessary to provide sufficient funds for its purposes, which may include, but shall not be limited to, providing funds for the payment of costs of a project, for the purchase of bonds of a special purpose trust or a sponsor, payment of interest on bonds of the bank or of a special purpose trust, establishment of reserves to secure bonds, refunding previously issued bonds or refunding bonds of the bank, special purpose trust, or a sponsor, and payment of other expenditures of the bank or special purpose trust incident to issuance of bonds or refunding bonds of the bank.

(b) The bank, by private sale pursuant to a bond purchase agreement, may purchase the bonds of any local sponsor or of any special purpose trust that are issued pursuant to any other provision of applicable law, and may be secured with any funds, moneys, or revenues that are legally available.

(c) The bank may also issue bonds or authorize a special purpose trust to issue bonds for the purpose of making loans to a sponsor to be used by a sponsor to pay for the cost of a project, and that loan may be secured with any funds, moneys, or revenues that are legally available, including, but not limited to, any legally available funds or moneys that are due or payable to the sponsor by reason of any grant, allocation, or appropriation of the state or agencies thereof, to the extent that the Controller shall be the custodian at any time of these funds or moneys, and any legally available funds or moneys that are or will be due or payable to any sponsor, the bank, or the state or the agencies thereof by reason of any grant, allocation, apportionment, or appropriation of the federal government or agencies thereof.

§ 63071. Issuance of bonds by sponsor for purchase by bank; bond purchase agreement; bonds issued by bank or special purpose trust pursuant to charter of sponsor city or city and county; total amount of outstanding bonds

(a) Notwithstanding any other provision of law, but consistent with Sections 1 and 18 of Article XVI of the California Constitution, a sponsor may issue bonds for purchase by the bank pursuant to a bond purchase agreement. The bank may issue

bonds or authorize a special purpose trust to issue bonds. These bonds may be issued pursuant to the charter of any city or any city and county that authorized the issuance of these bonds as a sponsor and may also be issued by any sponsor pursuant to the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Division 2 of Title 5) to pay the costs and expenses pursuant to this title, subject to the following conditions:

- (1) With the prior approval of the bank, the sponsor may sell these bonds in any manner as it may determine, either by private sale or by means of competitive bid.
- (2) Notwithstanding Section 54418, the bonds may be sold at a discount at any rate as the bank and sponsor shall determine.
- (3) Notwithstanding Section 54402, the bonds shall bear interest at any rate and be payable at any time as the sponsor shall determine with the consent of the bank.
- (b) The total amount of bonds issued to finance public development facilities that may be outstanding at any one time under this chapter shall not exceed five billion dollars (\$5,000,000,000). The total amount of rate reduction bonds that may be outstanding at any one time under this chapter shall not exceed ten billion dollars (\$10,000,000,000).
- (c) Bonds for which moneys or securities have been deposited in trust, in amounts necessary to pay or redeem the principal, interest, and any redemption premium thereon, shall be deemed not to be outstanding for purposes of this section.

§ 63072. Bank approval; issuance of bonds or authorization of a special purpose trust; terms and conditions; bank discretion

- (a) The bank may give final approval for the issuance of the bonds or of the authorization of a special purpose trust upon terms it deems necessary or desirable.
- (b) The executive director may establish the terms and conditions for the issuance of the bonds or of the authorization of a special purpose trust and take any other action necessary or desirable for the issuance of the bonds or of a special purpose trust authorized by the bank.
- (c) Any action under this section shall be at the discretion of the bank.

§ 63073. Issuance of tax-exempt bonds; approval pursuant to public approval requirement

The Treasurer, the Governor, or the Lieutenant Governor is an elected representative of the state authorized to fulfill the public approval requirement of Section 147(f) of Title 26 of the Internal Revenue Code (26 U.S.C.A. Sec. 147(f)),

including subsequent amendments thereto, or its successor provision, for the issuance of tax-exempt bonds issued by the bank, a special purpose trust, or a sponsor pursuant to this chapter.

§ 63074. Bank bonds; issuance; payment; sale

(a) Bonds may be authorized to finance a single project for a single sponsor or a participating party, a series of projects for a single sponsor or a participating party, a single project for several sponsors or participating parties, or several projects for several sponsors or participating parties.

(b) Except as otherwise expressly provided by the bank, every issue of its bonds shall be payable from any revenues or other moneys of the bank available therefor and not otherwise pledged. These revenues or moneys may include the proceeds of additional bonds, subject only to any agreements with the holders of particular bonds pledging any particular revenues or moneys. Notwithstanding that the bonds may be payable from a special fund, these bonds shall be deemed to be negotiable instruments for all purposes.

(c) Subject to the limitations in Section 63071, bonds may be issued in one or more series, may be issued as serial bonds or as term bonds or as a combination thereof. The bonds shall be authorized by resolution of the bank and shall, as provided by the resolution, bear the date of issuance, the time of maturity, which shall not exceed 50 years from the date of issuance, bear the rate or rates of interest, be payable at the time or times provided, be in the denominations provided, be in the form or forms provided, carry the registration privileges provided, be executed in the manner provided, be payable in lawful money of the United States, or other designated currency, at the place or places provided, and be subject to any terms of redemption provided therein.

(d) Sale of the bonds of the bank or of a special purpose trust shall be coordinated by the Treasurer in accordance with Section 5702. The Treasurer shall sell the bonds within 90 days of receiving a certified copy of the resolution authorizing the sale of bonds, unless the board adopts a resolution extending the 90-day period.

(e) The sale may be a public or private sale, and for any price or prices, and on any terms and conditions, as the bank determines proper, after giving due consideration to the recommendations of any special purpose trust and any sponsor to be assisted from the proceeds of the bonds. Pending preparation of definitive bonds, the Treasurer may issue interim receipts, certificates, or temporary bonds that shall be exchanged for definitive bonds.

§ 63075. Authorization resolutions; provisions

Any resolution authorizing any bonds or the authorization of a special purpose trust or any issue of bonds of the bank or a special purpose trust may contain the following provisions, which shall be a part of the contract with the holders of the bonds to be authorized:

(a) Provisions pledging the full faith and credit of the bank, or pledging all or any part of the revenues of any project, or any revenue-producing contract or contracts made by the bank with any sponsor, or any other moneys of the bank, to secure the payment of the bonds or of any particular issue of bonds, subject to those agreements with bondholders as may then exist and consistent with Sections 1 and 18 of Article XVI of the California Constitution.

(b) Provisions setting out the rentals, fees, purchase payments, loan repayments, and other charges, and the amounts to be raised in each year thereby, and the use and disposition of the revenues.

(c) Provisions setting aside reserves or sinking funds, or providing for the use of subordinated classes of bonds by the bank or a special purpose trust, and the regulation and disposition thereof.

(d) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(e) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds and the holders thereof that are required to give consent thereto, and the manner in which the consent may be given.

(f) Limitations on the bank's expenditures for operation and administration, or other expenses.

(g) Definitions of acts or omissions to act that constitute a default in the duties of the bank to holders of its obligations, and providing the rights and remedies of the holders in the event of a default.

(h) The mortgaging of any project and the site thereof for the purpose of securing the interests of the bondholders.

(i) The mortgaging of land, improvements, or other assets owned by a sponsor or participating party for the purpose of securing the interests of the bondholders.

§ 63076. Liability; persons executing bonds

Neither the officers of the bank nor any person executing the bonds of the bank or a special purpose trust shall be personally liable for the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

§ 63077. Purchase by bank, special purchase trust, or sponsor of their respective bonds; disposition

The bank, a special purpose trust, or any sponsor or participating party may, out of any funds available therefor, purchase their respective bonds. The bank and a special purpose trust may hold, pledge, cancel, or resell their bonds, subject to and in accordance with agreements with bondholders.

§ 63078. Trust agreement to secure bonds; terms of agreement or resolution for issuance of bonds

In the discretion of the bank, a special purpose trust, or the sponsor, as the case may be, any bonds issued under this chapter may be secured by a trust agreement between the bank, a special purpose trust, or the sponsor and a corporate trustee or trustees, that may include the Treasurer or any trust company or bank having the powers of a trust company within or without the state.

(a) The trust agreement or the resolution providing for the issuance of the bonds may pledge or assign any funds or assets of the bank or special purpose trust legally available for pledge or assignment, all or a portion of the revenues to be received by the bank, directly or indirectly, with respect to the project, or the proceeds of any contract or contracts, loan or loan agreements, bond or bond purchase agreements, and may convey or mortgage the project or projects, or any portion thereof, to be financed out of the proceeds of the bonds. The trust agreement or resolution providing for the issuance of the bonds may contain provisions for protecting and enforcing the rights and remedies of bondholders as may be reasonable and proper and not in violation of law, including provisions specifically authorized to be included in any resolution or resolutions of the bank or a sponsor authorizing bonds.

(b) Any bank or trust company doing business under the laws of the state that may act as a depository of the proceeds of bonds or of revenues or other moneys shall furnish indemnifying bonds or pledge securities when required by the bank, a special purpose trust, or a sponsor.

(c) The trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition, any trust agreement or resolution may contain other provisions that the bank may deem reasonable and proper for the security of the bondholders.

(d) The trust agreement may provide for the pledge or assignment of funds or moneys in the custody of the Controller that are legally available to a sponsor and that are due or payable to the sponsor by reason of any grant, allocation,

apportionment, or appropriation of the state or agencies thereof, and any legally available funds or moneys that are or will be due or payable, to any sponsor, the bank, the state or the agencies thereof by reason of any grant, allocation, apportionment, or appropriation of the federal government or agencies thereof.

§ 63079. Liability of state for bonds; statement on face of bonds; pledge of infrastructure bank

(a) Bonds issued under this chapter do not constitute a debt or liability of the state or of any political subdivision thereof, other than the bank or a special purpose trust, and do not constitute a pledge of the full faith and credit of the state or any of its political subdivisions, other than the bank or special purpose trust, but are payable solely from the funds provided therefor under this chapter and shall be consistent with Sections 1 and 18 of Article XVI of the California Constitution. This subdivision shall in no way preclude bond guarantees or enhancements pursuant to this title. All the bonds shall contain on the face thereof a statement to the following effect:

“Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of, or interest on, this bond.”

(b) The issuance of bonds under this chapter shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation therefor or to make any appropriation for their payment. Nothing in this section shall prevent, or be construed to prevent, the bank from pledging the full faith and credit of the infrastructure bank fund to the payment of bonds or issuance of bonds authorized pursuant to this chapter.

§ 63080. Proceedings relating to financed project; effect on validity of bonds

The validity of any bonds issued under this chapter shall not be affected by any proceedings related to the authorization or implementation of the project financed by the bonds.

§ 63081. Refunding of outstanding bonds; bonds for construction or acquisition of additions or expansions of projects

(a) The bank or a special purpose trust may issue bonds for the purpose of refunding any bonds, notes, or other securities of the bank, a special purpose trust, or a sponsor then outstanding, including the payment of any redemption premium thereon and any interest accrued, or to accrue, on their earliest or any subsequent date of redemption, purchase, or maturity of these bonds. The bank, or a sponsor, if it deems advisable, may issue or authorize a sponsor to issue bonds for the

additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of any project or any portion thereof.

(b) The proceeds of any bonds issued for the purpose of refunding outstanding bonds as provided in subdivision (a) may, in the discretion of the bank, be applied to the purchase or retirement at maturity or redemption of those outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending this application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption of those outstanding bonds on the date or dates as may be determined by the bank.

(c) Pending this use, the escrowed proceeds may be invested and reinvested by the Treasurer or a trustee in obligations of, or guaranteed by, the United States, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States, maturing at the time or times appropriate to assure prompt payment, of the principal, interest, and redemption premium, if any, of the outstanding bonds to be refunded. The interest, income, and profits, if any, earned or realized on the investment may also be applied to the payment of the outstanding bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income, and profits, if any, earned or realized on the investments thereof, shall be returned to the agency for use in carrying out the purposes of this division.

(d) The portion of the proceeds of the bonds issued for the additional purpose of paying all or any part of the cost of construction and acquiring additions, improvements, extensions, or enlargements of any project may be invested and reinvested by the Treasurer or a trustee in obligations of, or guaranteed by, the United States, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States, maturing not later than the time or times when these proceeds will be needed for the purpose of paying all or any part of the cost. The interest, income, and profits, if any, earned or realized on this investment may be applied to the payment of all, or any part of, the cost or may be used by the bank in carrying out the purposes of this division.

§ 63082. Authority of sponsor to issue other general obligation bonds

Notwithstanding anything herein to the contrary, this act shall be supplemental to, and not in lieu of, the right of any sponsor to issue general obligation bonds or bonds that it is otherwise lawfully authorized to issue or cause to be issued.

§ 63083. Taxation of bonds

Any and all bonds issued by the bank or a special purpose trust, their transfer and the income therefrom, shall at all times be free from taxation of every kind by the state and by all political subdivisions of the state.

§ 63084. Security of bond issuances through financial instruments; loans to support revolving loan funds of economic development corporations, etc.

(a) Any issue of revenue bonds by the bank may be secured and made more attractive to capital markets through financial instruments, including, but not limited to:

(1) Deeds of trust on the resources, facilities, and revenues of the projects.

(2) Credit enhancements, including, but not limited to, letters of credit, bond insurance, and surety bonds provided by private financial institutions.

(3) Insurance and guarantees provided by the bank itself.

(b) The bank may make loans to help establish and support the revolving loan funds of small business development corporations, economic development corporations, community development corporations, and nonprofit corporations. The loans may be made from any appropriate account or subaccount of the California Infrastructure and Economic Development Bank Fund and as determined by the bank.

§ 63085. Legal opinion regarding tax-exempt nature of bonds

Whenever the bank deems that it will increase the salability or the price of the bonds to obtain, prior to or after sale, a legal opinion from private counsel as to the validity or tax-exempt nature of the bonds, the bank may obtain a legal opinion. Payment for legal services may be made out of the proceeds of the sale of the bonds.

§ 63086. Financial consultants, advisers, and accountants

The bank may employ financial consultants, advisers, and accountants, as may be necessary in its judgment, in connection with the issuance and sale of any bonds of the bank. Payment for these services may be made out of the proceeds of the sale of the bonds.

§ 63087. Application of Public Contract Code provisions

Section 10295 and Sections 10335 to 10382, inclusive, of the Public Contract Code shall not apply to agreements entered into by the bank in connection with the sale of bonds or notes authorized under this division.